THE PROCEEDINGS AT THE Sessions House IN THE Old-Baily, London,

ON

Thursday the 24*th* day of *November*, 1681.

BEFORE

His Majesties Commissioners of *Oyer* and *Terminer*,

UPON THE

Bill of Indictment

FOR

HIGH-TREASON

AGAINST

ANTHONY

EARL of *SHAFTSBURY*.

Published by His Majesties Special Command.

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THE PROCEEDINGS AT THE Seſſions-Houſe IN THE OLD-BAYLY, LONDON,

On *Thurſday* the 24*th* of *November*, 1681.

The GRAND-JURY.

Sir *Samuel Barnardiſton.*
John Morden.
Thomas Papillon.
John Dubois.
Charles Hearle.
Edward Rudge.
Humphrey Edwin.
John Morrice.
Edmund Harriſon.
Joſeph Wright.
John Cox.
Thomas Parker.
Leonard Robinſon.
Thomas Shepherd.
John Flavell.
Michael Godfrey.
Joſeph Richardſon.
William Empſon.
Andrew Kendrick.
John Lane.
John Hall.

The OATH.

YOU ſhall diligently Inquire, and true Preſentment make, of all ſuch Matters, Articles, and Things, as ſhall be given you in Charge, as of all other Matters and Things as ſhall come to your own knowledge, touching this preſent ſervice, the Kings Council, your Fellows, and your own, you ſhall keep ſecret; you ſhall preſent no Perſon for hatred or malice; neither ſhall you leave any one unpreſented for fear, favour, or affection, for lucre or gain, or any hopes thereof, but in all things you ſhall preſent the truth, the whole truth, and nothing but the truth, to the beſt of your knowledge.

So help you God.

L. C. J. Pemberton. GEntlemen of the Jury, we are all met here in one of the most Solemn Assemblies of this Nation; it is upon the Execution of Justice upon such as shall be found Offenders, and Guilty of the Breach of the King's Laws.

This Commission by which we sit, and you are Summoned, doth in its nature extend to all Offences whatsoever against the Laws of the Land, Treasons, Misprisions of Treasons, Felonies, and all other Crimes and Offences against the King and his Government, such as are vulgarly called *Pleas of the Crown*; they all fall under our Cognizance, and your Enquiry in a general manner. But I must tell you, there is a particular occasion for this Commission at this time. His Majesty having Information of some Evil, Trayterous Designs against his Person and Government, has thought fit to Direct a due Examination of them, and that the persons may be brought to Condign punishment who shall be found Guilty thereof. You must not therefore expect any general and formal Charge from me; Truly I came hither this Morning with an apprehension, that you had had your directions given you before by the Recorder, for it is our usual way not to come until the Juries are Sworn in this place, and their Directions given them; but since I find it otherwise, I take it to be my Duty to say something to you, but shall not go about now to make any such formal Charge, as in Commissions of this nature is wont to be done, nor to give an account of all Offences that fall under your Enquiry of a Grand Inquest, Impannelled by vertue of such a Commission at large: Nor must you expect I should acquaint you with all the Crimes that you may enquire of as such an Inquest.

I shall content my self so far, as on the sudden I can recollect my thoughts, to acquaint you with the Nature of those Bills; with the Enquiry whereof, you shall at present, upon this occasion, be troubled, and your Duty concerning that Enquiry. I hinted to you at first, that they are matters of High-Treason, which is a Crime of the greatest and highest nature of any Crime that can be committed against Man; other Crimes, as Felonies, Riots, Trespasses, and Things of that nature, they may occasion disorders and troubles in a State or a Kingdom. But, I must tell you, Treason strikes at the root and life of all; it tends to destroy the very Government, both King and Subjects, and the Lives, Interest and Liberties of all, and therefore has always been look'd upon as a Crime of the most notorious nature that can be whatsoever, and accordingly Punishments have been appointed for it of the highest and severest extremity. There was at Common Law great variety of Opinions concerning Treason, and there were many Disputes about it what should be Treason, and what not; and therefore it was thought fit, by the Wisdom of our Ancestors, to have a Law to Declare Treason: and by the Statute of the 25*th* of *Edward* the 3*d*, there was a plain Declaration made of what was Treason, and what not: By that Law, *for any one to Compass, Imagine, or Intend the Death of the King*, (for I will give you no more of that Statute, nor concerning the sense thereof, than may be for your purpose now); I say, by that Law, *to Compass, Imagine, or Intend the Death of the King, and to declare it by Overt-Act, or to Levy War against the King* were declared (amongst other things in that Statute mentioned) *to be High-Treason:* And this hath obtained for Law among us ever since; and by that standing Law, nothing is to be accounted Treason, but what is therein particularly declared so; but upon many emergent

emergent occaſions there hath been ſeveral other Laws, as the caſe hath required now and then, for to declare and bring other particular Crimes within the compaſs of Treaſons: So there was a Law made in Queen *Elizabeths* Reign, for Enacting ſeveral Crimes to be Treaſons, during her Life, which was made upon the occaſion of the Inveterate Malice of the *Roman Catholicks* againſt her and her Government; and ſo there hath been in other Kings Reigns upon other occaſions.

Amongſt the reſt, it was thought fit by the Parliament aſſembled here, in the Thirteenth year of this preſent King, to make a particular Law for the Enacting and Declaring ſeveral Crimes to be Treaſons, during this Kings Life; they had great grounds, and too much occaſion for it, and ſo they expreſs it in the Preamble of that Law. The wounds which the then late Treaſons had made, that had ſo far obtained in this Kingdom, were then ſtill bleeding, ripe, and ſcarcely cloſed; many Trayterous Poſitions, and many Seditious Principles were ſpread, and had obtained and gained footing among the People of this Kingdom; and the Parliament had reaſon to believe, that where they had been ſo maliciouſly bent againſt the King and his Family, and had taken off his Father, and maintained ſo long and dangerous a War againſt him, almoſt to the utter Deſtruction and Extirpation of him, and all his good Subjects, and of his, and all our Intereſts, Properties, and Liberties, and had almoſt deſtroy'd a flouriſhing Kingdom: Here they had reaſon, I ſay, to be careful, to prevent the like miſchiefs for the future; therefore, Gentlemen, they did think fit to make a new Law for this purpoſe: And whereas the Law before was, That it ſhould be Treaſon to Compaſs, Imagine, or Intend the Death of the King, ſo as it were declared by Overt-Act; now they thought it would be dangerous to ſtay till an Overt-Act ſhould declare the intention; for when they had ſeen ſuch malicious and evil Deſigns againſt the King and Supreme Authority; and that they had prevailed ſo far, as to Murder one King, and Baniſh another; and had gone a great way in the deſtruction of the Government of this Kingdom, abſolutely to root it quite out: They had reaſon then, as much as they could, to prevent the Deſigns before they ſhould grow full ripe, and vent themſelves in Overt-Acts; therefore it was Enacted by that Statute, made in the 13*th* year of this Kings Reign, "That "if any one ſhould Compaſs, Imagine, or Intend the Death of the King, "or his Deſtruction, or any bodily harm, that might tend to his "Death or Deſtruction, or any Maiming or Wounding his Perſon, "any Reſtraint of his Liberty, or any Impriſonment of him; or if "any ſhould deſign or intend to Levy any War againſt him, either "within the Kingdom, or without; or ſhould deſign, intend, endea-"vour, or procure any Foreign Prince to Invade theſe his Domi-"nions, or any other of the Kings Dominions, and ſhould ſignifie "or declare this by any Writing, or by any Preaching or Printing, "or by any adviſed, malicious ſpeaking, or words, this ſhall be High-"Treaſon.

Now this hath altered the former Law greatly, eſpecially in two Caſes: Firſt as to Levying of War; the Intention was not Treaſon before, unleſs it had taken effect, and War had been actually Levied: And then as to the Deſigning and Compaſſing the Kings Death, that was not Treaſon, unleſs it was declared by an Overt-Act: And as to

the Impriſoning, or Reſtraining of the Liberty of the King, they of themſelves alone were not High-Treaſon; but now by this Law theſe are made Treaſon, by this Law, during his Majeſties Life: And the very deſigning of them, whether they take effect, or not take effect, though it be prevented (before any Overt Act,) by the timely Prudence of the King and his Officers, though it ſhould be timely prevented, that there is no hurt done; yet the very deſign, if it be but utter'd and ſpoken, and any ways ſignified by any diſcourſe; this (Gentlemen) is made Treaſon, by this Act; and this hath wrought very great alteration in the caſe of Treaſon now; formerly it was ſaid, and ſaid truly enough, that Words alone would not make Treaſon; but ſince this Act, Gentlemen, Words, if they import any malicious deſign againſt the Kings Life and Government; any Trayterous intention in the party; ſuch words are Treaſon now within this Act: And this Act was made with great Prudence, and with great Care to take off that undue Liberty that men had taken to themſelves; in thoſe times of Licentiouſneſs, people had taken to themſelves an undecent, and undue liberty to vent all their Seditious and Malicious minds one to another, without any reſtraint at all: Therefore now, Gentlemen, you muſt conſider, that Words, if they ſignifie or purport any Trayterous intention or deſign in the party, either againſt the King or his Government; either to reſtrain his Liberty, or Impriſon him, or to do him any bodily hurt, or any Crime of that nature; this is Treaſon within this Act of Parliament.

Look ye, Gentlemen, now as to the Indictments that ſhall be brought before you, you are to conſider theſe things: 1. Whether the Matter contained in them, and which you ſhall have in Evidence, be Matter of Treaſon within the former, or this Act of Parliament? And here, if you doubt of it, then you muſt adviſe with us that are Commiſſionated by his Majeſty to Hear and Determine theſe Crimes; and in Matters of Law we ſhall direct you: And you are to enquire if there be two Witneſſes that ſhall teſtifie the Matters in Evidence to you, for without two Witneſſes no man is to be Impeached within theſe Laws; but if there be two Witneſſes that ſhall teſtifie to you Matters to make good the Indictments, then you have ground to find the Indictments. But I muſt tell you as to this caſe of two Witneſſes, it is not neceſſary that they ſhould be; Two Witneſſes to the ſame words, or to words ſpoken at one time, or in the ſame place; that is not neceſſary: If one be a Witneſs to words that Import any Trayterous deſign and intention, ſpoken at one time, and in one place; and another teſtifie other Seditious and Trayterous Words, ſpoken at another time, and in another place; theſe two are two good Witneſſes within this Statute, and ſo it hath been ſolemnly reſolved by all the Judges of *England* upon a ſolemn occaſion.

Look ye, Gentlemen, I muſt tell you, That that which is referr'd to you, is to conſider, whether upon what Evidence you ſhall have given unto you, there be any reaſon or ground for the King to call theſe perſons to an account; if there be probable ground, it is as much as you are to enquire into: You are not to Judge the perſons, but for the Honour of the King, and the Decency of the Matter; it is not thought fit by the Law, that perſons ſhould be Accuſed and Indicted, where there is no colour nor ground for it; where there is no kind of ſuſpition

of

of a Crime, nor reaſon to believe, that the thing can be proved, it is not for the King's Honour to call Men to an Account in ſuch caſes: Therefore you are to enquire, whether that that you hear be any cauſe or reaſon for the King to put the Party to anſwer it. You do not Condemn, nor is there ſuch a ſtrict Enquiry to be made by you, as by others, that are ſworn to try a Fact, or Iſſue: A probable cauſe, or ſome ground, that the King hath to call theſe perſons to anſwer for it, is enough, Gentlemen, for you to find a Bill, 'tis as much as is by Law required. Gentlemen, you muſt conſider this, That as it is a Crime for to condemn Innocent perſons, ſo it is a Crime as great to acquit the Guilty, and that God that requires one of them, requires both; ſo that you muſt be as ſtrict in the one, as you would be in the other. And let me tell you, If any of you ſhall be Refractory, and will not find any Bill, where there is a probable ground for an Accuſation, you do therein undertake to intercept Juſtice, and you thereby make your ſelves Criminals, and Guilty, and the fault will lye at your Door. You muſt conſider, Gentlemen, you are under a double Obligation here to do Right; you are under the Obligation of *Engliſh-men*, as we are all Members of one great Body, of which the King is Head; and you are engag'd, as *Engliſh-men*, to conſider, That Crimes of this Nature ought not to go unpuniſh'd: Then you have an Oath of God upon you, you are here ſworn to do according to what the Evidence is. Now therefore, if you have two Witneſſes of Words that may import a Treaſonable Deſign or Intention in any of thoſe Parties, againſt whom you ſhall have Indictments offer'd to you, you are bound both by the Law of Nature, as you are Members of this Body; and by the Law of God, as you have taken an Oath upon you, for to find thoſe Bills.

Gentlemen, Compaſſion or Pity is not your Province, nor ours in this caſe; there is no room for that in Enquiries of this nature, that is reſerv'd to an higher and ſuperiour Power, from which ours is deriv'd: Therefore, Gentlemen, I muſt require you to conſider ſuch Evidence as ſhall be given you, and to be impartial according to what you ſhall hear from the Witneſſes, if you have ground, upon what Evidence you ſhall have given to you, to believe, that there is any reaſon or cauſe for the King to call the perſons named in ſuch Indictments, as ſhall be tender'd to you, to anſwer for what is objected againſt them therein, you are to find thoſe Bills, that is all that I ſhall ſay to you, only pray God to direct you in your Enquiry, that Juſtice may take place.

[Then a Bill of High-Treaſon was offer'd againſt the Earl of *Shaftsbury*, and Sir *Francis Withens* moved, That the Evidence might be heard in Court.]

L. C. J. Gentlemen of the Jury, You hear it is deſired by the King's Council, (and that we cannot deny) that the Evidence may be publickly given, that it may not be hereafter in the Mouths of any ill-minded perſons abroad, to ſcatter any Miſtakes or Untruths up and down, or to ſlander the King's Evidence, or to ſay any thing concerning them that is not true: Therefore we cannot deny this motion of the King's Council, but deſire that you will take your places, and hear the Evidence that ſhall be given you.

[The Jury then deſired a Copy of their Oath, which the Court granted, and then they withdrew. After ſome little time they returned, and then the Clerk called them by their Names.]

Foreman. My *Lord Chief Juſtice*, it is the opinion of the Jury, that they ought to Examine the Witneſſes in private, and it hath been the conſtant practice of our Anceſtors and Predeceſſors to do it, and they inſiſt upon it as our Right to Examine in private, becauſe they are bound to keep the King's Secrets, which they cannot do if it be done in Court.

L. C. J. Look ye Gentlemen of the Jury, it may very probably be, that ſome late uſage has brought you into this Error, That it is your Right; but it is not your Right in truth: For I will tell you, I take the reaſon of that uſe for Grand Juries to Examine the Witneſſes privately and out of Court, to comply with the Conveniencies of the Court; for generally upon ſuch Commiſſions as theſe are, the buſineſs is much; and at *Gaol-Deliveries* there are a great many perſons to be Indicted and Tried, and much other Work beſides, of other natures, to be done: And if at ſuch times we ſhould examine all Buſineſſes publickly in the Court, it would make the buſineſs of theſe Commiſſions of a wonderful great length and cumbrance. Therefore the Judges, for the convenience of the matter, have allow'd, That Witneſſes ſhould go to the Jury, and they to Examine them; not that there is any matter of Right in it, for without queſtion Originally all Evidences were given in Court; the Jury are Officers and Miniſters of the Court by which they enquire, and Evidence ſure was all given in Court formerly; and the Witneſſes ſtill are always ſworn in Court, and never otherwiſe. And, Gentlemen, I muſt tell you, 'Tis for your Advantage, as well as for the King's, that it may be ſure, that you comply with your Evidence, that you do nothing clandeſtinely; therefore 'tis for your advantage that this is done, and the King likewiſe deſires it. Now I muſt tell you, That if the King require it of us, and it is a thing that is in its Nature indifferent, we ought to comply with the King's deſire, to have it examin'd in Court; you ſhall have all the liberty that you can have in private; what Queſtion ſoever you will have ask'd, your ſelves ſhall ask it, if you pleaſe, and we will not cramp you in Time, nor any thing of that Nature. Therefore, Gentlemen, there can be no kind of reaſon why this Evidence ſhould not be given in Court. What you ſay concerning your keeping your Councels, that is quite of another Nature, that is, your Debates, and thoſe things, there you ſhall be in private for to conſider of what you hear publickly. But certainly it is the beſt way, both for the King, and for you, that there ſhould, in a caſe of this nature, be an open and plain Examination of the Witneſſes, that all the World may ſee what they ſay.

Foreman. My Lord, if your Lordſhip pleaſes, I muſt beg your Lordſhip's pardon; if I miſtake in any thing, it is contrary to the ſence of what the Jury apprehend. Firſt, They apprehend that the very words of the Oath doth bind them, it ſays, *That they ſhall keep the Council's, and their own Secrets*: Now, my Lord, there can be no Secret in publick, the very intimation of that doth imply, that the Examination ſhould be ſecret; beſides, my Lord, I beg your Lordſhip's pardon if we miſtake, we do not underſtand any thing of Law.

Mr. *Papillon.* Your Lordſhip is pleaſed to ſay, That it hath been the common uſage and practice; ſometimes, my Lord, we have heard, that that hath been the Law of *England*, that hath been the Cuſtom of *England*: If it be the ancient uſage and cuſtom of *England*, that hath never been alter'd from time to time, and hath continued ſo, we deſire your Lordſhip's Opinion upon that, as we would not do any thing that may be pre-

judicial

judicial to the King, ſo we would not do the leaſt that ſhould be prejudicial to the Liberties of the People; if it be the ancient Cuſtom of the Kingdom to Examine in private, then there is ſomething may be very prejudicial to the King in this publick Examination; for ſometimes in Examining Witneſſes in private, there come to be diſcover'd ſome perſons Guilty of Treaſon, and Miſpriſion of Treaſon, that were not known, nor thought on before. Then the Jury ſends down to the Court, and gives them intimation, and theſe men are preſently ſecur'd; whereas, my Lord, in caſe they be Examined in open Court publickly, then preſently there is intimation given, and theſe men are gone away. Another thing that may be prejudicial to the King, is, that all the Evidences here will be foreknown before they come to the main Tryal upon iſſue by the Petty-Jury; then if there be not a very great deal of care, theſe Witneſſes may be confronted by raiſing up Witneſſes to prejudice them, as in ſome caſes it has been. Then beſides, the Jury do apprehend that in private, they are more free to Examine things in particular for the ſatisfying their own Conſciences, and that without favour or affection; and we hope we ſhall do our duty.

L. C. J. Look ye, Mr. *Papillon*, it is reaſonable that we ſhould give you our advice in this caſe: I muſt tell you, if you had conſider'd of what I had ſaid before, I thought I had obviated theſe Objections. Firſt as to that that you do ſay, that you are bound to Conceal your Councels, and the Kings ſecrets, that is very true, as to your Councels, that is, your Debates, you are bound to conceal them: As to the Kings ſecrets, ſo long as he will have them kept ſecret, you are bound to keep them ſo too, but it doth not deprive the King of the benefit of having it publick, if he have a deſire for it; you don't break your Oath, if the King will make it publick, you don't make it publick, as the King does it. Then as to that that you do ſay, that you apprehend the common uſage of the Kingdom to be a Law, that is true, Mr. *Papillon*, in ſome ſence; a conſtant and uninterrupted uſage goes for a Law among us; but I thought I had told you before, that both of ancient and later times there have been Examinations of the Witneſſes in Court in Caſes of this nature; and we are not without preſidents of it every Year, every Term, continually from time to time, Evidence is heard in Court by the Grand-Jury; it is as uſual a thing with us, as any thing, if it be deſired, nothing more frequent, or more common: I never heard it deny'd, or ſtood upon by any Grand-Jury in my life, till of late here; you may be inſtructed with a thouſand preſidents, for I am ſure it is a common and ordinary caſe upon ſuch occaſions, if deſired to hear the Evidence in Court.

Look ye, Gentlemen, as to that care that you have of the Kings affairs, the King has reaſon to take it well that you are ſo careful for them; and that you are ſo mindful of his concerns, he hath a great deal of reaſon to think well of you for it: And, Gentlemen, conſider this, that His Majeſties Council have certainly conſidered of this Evidence, before they brought this to a publick Enquiry; or elſe it would be a hard thing if they ſhould come raw, and not know what the Witneſſes can ſay; for though you are the Jury to hear the Witneſſes, yet you muſt conſider, that the Kings Council have Examined whether he hath cauſe to accuſe theſe perſons, or not; and, Gentlemen, they underſtand very well, that it will be no prejudice to the King to have the Evi-

dence heard openly in Court, or elſe the King would ne're deſire it.

Foreman. My Lord, the Gentlemen of the Jury deſire that it may be Recorded, that we inſiſted upon it as our Right; but if the Court o're rule, we muſt ſubmit to it.

L. C. J. Here are enough perſons to take notice of it; to make Records of ſuch things, is not uſual; it is not our buſineſs here to record every thing, that every man will deſire to be Recorded: We can Record nothing but what is in Order to the Proceedings, but notice enough is taken of it, you need not fear but that there will be Witneſſes enough.

L. C. J. North. Gentlemen, I muſt ſay ſomething to fortifie what my Lord Chief Juſtice has ſaid: If any of us had been of a different opinion, we would have ſpoken it; the ſame thing was ſtood upon, and diſcourſed on the laſt Seſſions, and then all the Judges were of this opinion, and in what all the Judges agree to, you ſhould acquieſce. I muſt tell you from my own experience; where the King will, he ought to have it kept ſecret: I have not known it done publickly in the orderly courſe of buſineſs; but I have often known where it hath been deſir'd by thoſe which Profecute for the King, that Evidence hath been given openly; and I never knew it deny'd: If any of my Brothers think otherwiſe, I deſire they would ſpeak; but, I tell you, as to my experience, this is the caſe.

Mr. Sheriff P. I deſire the Witneſſes may be kept out of the Court, and called one by one.

L. C. J. It is a thing certainly, that the King's Council will not be afraid of doing; but Sheriffs do not uſe to move any thing of this nature in Court, and therefore 'tis not your Duty, Mr. Sheriff, to meddle with it.

Sheriff P. It was my Duty laſt time, my Lord, and appointed.

Mr. Att. Gen. You were acquainted 'twas not your Duty laſt time, and you appear againſt the King.

Then the Indictment was Read.

London ff. 'THE Jurors for our Soveraign Lord the King, upon 'their Oaths preſent, that *Anthony* Earl of *Shaftsbury*, 'late of the Pariſh of St. *Martins* in the Fields, in the County 'of *Middleſex*, as a falſe Traytor againſt the moſt Illuſtrious, 'and moſt Excellent Prince, our Soveraign Lord *Charles* the 'Second, by the Grace of God, of *England*, *Scotland*, *France* 'and *Ireland*, King, his Natural Lord, the fear of God in his 'heart not having, nor weighing the Duty of his Allegi-'ance; but being moved and ſeduced by the Inſtigation of 'the Devil, the Cordial Love, and true, due, and natural 'Obedience, which true and faithful Subjects of our ſaid 'Soveraign Lord the King, towards him our ſaid Sove-'raign Lord the King, ſhould, and of right ought to 'bear, wholly withdrawing, and with all his ſtrength in-'tending the Peace and common Tranquillity in this King-'dom of *England*, to diſturb, and War and Rebellion againſt 'our ſaid Soveraign Lord the King, to ſtir up and move, 'and the Government of our ſaid Soveraign Lord the King, 'within this Kingdom of *England*, to ſubvert, and him our 'ſaid Soveraign Lord the King, from the Title, Honour and 'Regal Name of the Imperial Crown of his Kingdom of *En-*'*gland* to Depoſe and Deprive, and Him our ſaid Soveraign 'Lord the King to death and final deſtruction to bring and 'put, the 18*th* day of *March*, in the Three and thirtieth year 'of the Reign of our Soveraign Lord, *Charles* the Second, 'now King of *England*, and divers other days and times, as 'well before as afterward, in the Pariſh of St. *Mary Le-Bow*, 'in the Ward of *Cheap*, *London*, Trayterouſly compaſſed, 'imagined, and intended the Death and Final Deſtruction of 'our ſaid Soveraign Lord the King, and the ancient Govern-'ment of his Kingdom of *England*, to change, alter, and wholly 'to Subvert, and Him our ſaid Soveraign Lord the King, 'from the Title, Honour, and Kingly Name of his Imperial 'Crown of this Kingdom of *England* to Depoſe and Deprive, 'and War and Rebellion againſt our ſaid Soveraign Lord the 'King, to move and levy within this Kingdom of *England*; 'and his ſaid moſt wicked Treaſons, and Trayterous com-'paſſes, imaginations and purpoſes aforeſaid, to fulfill and per-'fect, he the ſaid *Anthony* Earl of *Shaftsbury*, as a falſe Tray-'tor, with divers Armed men, Subjects of our ſaid Sove-'raign Lord the King, then being, maliciouſly, trayterouſly 'and adviſedly did provide and prepare to be aiding to him 'the ſaid Earl of *Shaftsbury*, to fulfill and perfect his Treaſons 'aforeſaid. And his ſaid wicked Treaſons, Trayterous com-'paſſes, imaginations and purpoſes, the ſooner to fulfill and 'perfect, he the ſaid *Anthony* Earl of *Shaftsbury*, as a falſe 'Traytor, with one *John Booth*, and other Subjects of our ſaid 'Lord the King, then and there Trayterouſly aſſembled, 'met and conſulted; and the ſame wicked Treaſons, and

'Trayterous compaſſes, imaginations and purpoſes aforeſaid, 'then and there to the ſaid *John Booth*, and other perſons, to 'the Jury unknown, in the hearing of divers Liege Subjects 'of our Soveraign Lord the King, then and there preſent, 'openly, publickly, maliciouſly, trayterouſly and adviſedly 'did ſay and declare, and to perſwade and induce the ſaid '*John Booth* to be aiding and aſſiſting in his ſaid Treaſons, 'Compaſſes, Imaginations and Purpoſes, he the ſaid *Anthony* 'Earl of *Shaftsbury*, as a falſe Traytor, maliciouſly, adviſedly, 'and trayterouſly, the ſaid 18*th* day of *March*, in the Three 'and thirtieth year of the Reign of our ſaid Soveraign Lord 'the King, at the Pariſh and Ward aforeſaid, within the 'City of *London* aforeſaid, falſly, adviſedly, ſubtilly, malici- 'ouſly and trayterouſly ſaid, aſſerted and declared, That in a 'ſhort time the Parliament was to ſit at *Oxford*, and that 'he the ſaid *Anthony* Earl of *Shaftsbury* had inſpected the Ele- 'ctions, and conſidered the inclinations and diſpoſitions of 'the generality of the Members of Parliament Elected; and 'that he the ſaid *Anthony* Earl of *Shaftsbury* was ſatisfied that the 'Parliament would inſiſt upon three Matters, (to wit) *The 'Bill of Excluſion againſt the Duke of* York; *the Aboliſhing the 'Act of Parliament of the* 35th *of Queen* Elizabeth, *and the 'paſſing of a New Bill for Uniting Proteſtant Diſſenters*; with 'divers other good and wholeſome Bills. To which he the 'ſaid *Anthony* Earl of *Shaftsbury* was certain that the Kings 'Majeſty would refuſe to give his Royal Aſſent; and therefore 'he the ſaid *Anthony* Earl of *Shaftsbury* did expect that there 'would be a Diviſion between the Kings Majeſty and the 'Parliament; and that many Noble Lords and Worthy Mem- 'bers of the lower Houſe did concur in the ſame Opinon; 'and they were reſolved to inſiſt upon the Paſſing of thoſe 'Bills: And if the Kings Majeſty refuſed, that they (meaning 'him the ſaid *Anthony* Earl of *Shaftsbury*, and the ſaid Noble 'Lords and Worthy Members) had provided ſtrength to 'compel the Kings Majeſty to Grant thereunto: And that for 'his part, he the ſaid *Anthony* Earl of *Shaftsbury* had pro- 'vided ſtout men to be Commanded by Captain *Wilkinſon*, '(meaning one *Henry Wilkinſon*, one of the Subjects of our 'ſaid now Soveraign Lord the King); of which he the ſaid '*Anthony* Earl of *Shaftsbury* had agreed that the ſaid *John 'Booth* ſhould be one.

'And further, The Jurors aforeſaid upon their Oath do 'ſay, That the aforeſaid *Anthony* Earl of *Shaftsbury*, his ſaid 'wicked Treaſons, and Trayterous Imaginations, to fulfill, 'perfect, and bring to effect afterwards; to wit, the ſaid 'Eighteenth day of *March*, in the Thirty-third year of his 'ſaid now Majeſties Reign, in the Pariſh and Ward afore- 'ſaid, within the City of *London* aforeſaid, as a falſe Tray- 'tor in the preſence and hearing of divers Liege People of 'our ſaid Soveraign Lord the King, then and there preſent,

'openly

'openly and publickly, falſly, maliciouſly, adviſedly and 'traiterouſly ſaid, aſſerted, publiſhed, and with a loud voice 'declared, That our ſaid now Lord the King was a Man 'of no Faith, and that there was no truſt in him; and that 'our ſaid Lord the King deſerved to be depoſed, as well 'as *Richard* the Second, late King of *England*, deſerved.

'And further, The Jurors aforeſaid upon their Oath do ſay, 'That the ſaid *Anthony* Earl of *Shaftsbury*, his ſaid wicked 'Treaſons, and traiterous Imaginations aforeſaid, to be ful-'filled and perfected, and brought to effect the ſaid 18*th* day 'of *March*, in the Three and thirtieth year of his ſaid now 'Majeſty's Reign, in the Pariſh and Ward aforeſaid, in the 'City of *London* aforeſaid, as a falſe Traytor, in the preſence 'and hearing of divers Liege Subjects of our ſaid Lord the 'King then and there preſent, openly and publickly, falſly, 'maliciouſly, adviſedly, and traiterouſly ſaid, aſſerted, pub-'liſhed, and with a loud voice declared, That he the ſaid 'Anthony Earl of *Shaftsbury* would never deſiſt, until he had 'brought this Kingdom of *England* into a Commonwealth 'without a King, and that the ſaid *Anthony* Earl of *Shaftsbury*, 'and all thoſe that him the ſaid *Anthony* Earl of *Shaftsbury* 'would aſſiſt, (and he knew many that would aſſiſt him the 'ſaid *Anthony* Earl of *Shaftsbury*) would make *England* a 'Commonwealth as *Holland* was: And that he the ſaid *An-'thony* Earl of *Shaftsbury*, and other Traytors unknown, 'would live as in *Holland*, and that he our ſaid Lord the King, 'and all his Family, ſhould be rooted out.

'And further, The Jurors aforeſaid do ſay, That the ſaid 'Anthony Earl of *Shaftsbury*, his ſaid wicked Treaſons, and 'traiterous Imaginations aforeſaid, to be fulfilled, perfected, 'and brought to effect afterwards, the ſaid 18*th* day of *March*, in 'the Three and thirtieth year of his ſaid now Majeſty's Reign, 'in the Pariſh and Ward aforeſaid, in the City of *London* 'aforeſaid, as a falſe Traytor, in the preſence and hearing of 'divers Liege Subjects of our ſaid Soveraign Lord the King 'then and there preſent, openly, publickly, falſly, maliciouſly, 'adviſedly, and traiterouſly ſaid, aſſerted, publiſhed, and 'with a loud voice declared, That our now Soveraign Lord 'the King was a Man of an unfaithful Heart, and not worthy 'to be truſted, and not fit to Rule and Govern, being falſe, 'unjuſt, and cruel to his People; and if he would not be 'governed by his People, that they (meaning him the ſaid 'Anthony Earl of *Shaftsbury*, and other Traytors to the Ju-'rors unknown) our ſaid Soveraign Lord the King would 'depoſe, againſt his Allegiance and Duty, and againſt the 'Peace of our ſaid Soveraign Lord the King, his Crown and 'Dignity, *&c.* and againſt the form of the Statute in ſuch 'caſe made and provided, *&c.*

Sir

Sir *Fr. Withens.* Gentlemen of the Jury, This is an Indictment againſt the Earl of *Shaftsbury*; I ſhall not trouble you to open the Indictment, becauſe the Evidence will be ſomewhat long, I ſhall only tell you which way we ſhall go ——

L. C. J. North. I do not know whether you deſire the Witneſſes ſhould be Examin'd apart, do you deſire that, Gentlemen?

L. C. J. If you do deſire it, Gentlemen, they ſhall, for Mr. *Sheriff* hath nothing to do with it; but if you do deſire it, you ſhall have the Witneſſes call'd one at a time, and all the reſt ſhall be put out of the Court.

Jury. My Lord, It is our deſire.

L. C. J. We did deny it to Mr. *Sheriff*, becauſe we are to keep Men within their Duty. Here it is not his Duty to meddle with any thing of this nature.

Foreman. My Lord, We deſire we may have a Liſt of their Names, and that they may be put apart, that they may not hear what one another ſay.

Sir *Fr. withens.* My Lord, There is one part I would open.

L. C. J. There is no need for it at all —— You ſhall have their Names told you as they are call'd.

Mr. *Harriſon.* My Lord, We pray we may have a Liſt of their Names.

L. C. J. If you deſire it, you may have it, but it will be no advantage, for you will hear them named, and you may write them down as they come in.

Mr. *Godfrey.* We deſire a Liſt, for you told us, The King's Council had Examin'd them, and knew who they were.

L. C. J. I'le tell you, The Court is to have their Names indorſed, for they don't bring Witneſſes in hugger-mugger, and I ſuppoſe they are indorſed here.

L. C. J. North. It is want of Experience that makes you ask this; you are told, they are indorſed here.

L. C. J. Look you, Sir *Samuel Barnardiſton*, you muſt have the Indictment it ſelf out with you, and all their Names written upon the back of that Indictment; but that you ſhould deſire to have the Names of them in a Roll beforehand, I do not know, if there be any reaſon that you can aſſign for it.

Foreman. One thing more I have to ſay, That we may ſee the Warrant by which the Earl of *Shaftsbury* was committed, for there are ſome other Queſtions depend upon it.

L. C. J. That we cannot do, for the Lieutenant of the *Tower* hath that Warrant, which he keeps for his Indemnity, we cannot demand it from him upon any terms: Any thing that you do deſire of us, let us know; what is reaſonable, and within our Power, we will grant; and for other deſires of yours, we tell the reaſon why we cannot grant them.

Mr. *Papillon.* My Lord, if your Lordſhip pleaſes, I will only acquaint your Lordſhip, That the Gentlemen of the Jury do ſeem to be of Opinion, that your Lordſhip gives them leave to examine the Witneſſes; and the Jury, becauſe they would not put the Court to too much trouble, do deſire, That the Witneſſes ſhould come one after another, and make their Information, and then the Jury would withdraw, to conſider what proper Queſtions to ask them, and come down again.

L. C. J.

L.C.J. You ſhall do ſo, Gentlemen. Look you, we did at the requeſt of the laſt Jury uſe the ſame method; after they had heard the Witneſſes what they gave in evidence, they came and deſired leave to ask them ſome Queſtions, which was granted, and they were call'd one by one, and they did examine them; you ſhall do ſo, Gentlemen.

Mr. Att. Gen. I was informed this Morning there were ſeveral Queſtions to be askt of the ſeveral Witneſſes to direct the Grand-Jury how to demean themſelves.

L.C.J. Mr. Attorney, the requeſt is reaſonable enough.

Mr. Harriſon. We deſire they may be Examined one by one.

L. C. J. North. I ſuppoſe you don't ſtand upon it for theſe Witneſſes, they are Clerks of the Council, that only prove a Paper which it ſeems was found in the Earl of *Shaftsbury's* houſe: if you will they may go out and be call'd in again.

Harriſon. We humbly beg it.

Mr. Godfrey. I was Foreman of the Jury at *Fitz-Harris's* Tryal, and it was complained he had hard meaſure from ſome Iriſh Witneſſes, and that it was ſevere that they ſhould be examin'd in troops: it hath troubled me ſince that I did not put them out and examine them apart.

L. C. J. Look ye, Gentlemen, you that are Witneſſes for the King, you muſt go all out, and come in as you are called, one by one.

Which done William Blathwait *Eſq; was produced, and a Paper delivered in.*

Mr. Sanders to *Mr. Blathwait.* I pray Sir, give an account how you came by that Paper.

W. Blathwait. This Paper Gentlemen was put into my Cuſtody by Mr. *Gwyn*, Clerk of the Council, who ſeiz'd it among others in my Lord *Shaftſbury's* Houſe: he gave me the Key of the Room where they were kept, and it hath been altogether in my Cuſtody, except for a ſhort time that it was delivered to Mr. Secretary *Jenkins*, by whom it was re-delivered to me. Mr. *Gwyn* having ſeiz'd Papers at my Lod *Shaftsbury's* houſe brought them to the Council-Office, and put them into one of the Rooms, and lock'd the Door, and deliver'd the Key to me. When I was order'd by the Committee of Examinations, I fetch'd up the Trunks and Papers, and brought them into the Council-Chamber, and the Trunks were opened in the preſence of ſome of the Lords of the Council, and in the preſence of Mr. *Wilſon*, who was appointed to attend there on the behalf of my Lord of *Shaftsbury*, and he was always preſent when the Papers were taken out of the Trunks and Bags: This was one Paper, and was taken out upon the 6th. of *July* in the preſence of Mr. *Wilſon*, who took particular notice of this Paper, as may appear by his own hand. The Trunk was Sealed, it was a great Trunk, and it was open'd in the preſence of Mr. *Samuel Wilſon* and Mr. *Starkey*, who were both appointed by my Lord of *Shaftsbury*.

L.C.J. Was this Paper found in one of thoſe Trunks or Boxes that was deliver'd to you by Mr. *Gwyn?*

Mr. Blathwait. This Paper was taken out of a Velvet Bag which Mr. *Gwyn* had put into the great Trunk, which Trunk was Sealed and opened in the preſence of Mr. *Wilſon* and Mr. *Starkey*.

Sir Fr. Withins. Did you find that Paper in the Trunk?

Blaithwait. I took this and others out of the Velvet Bag which was in the great Trunk.

L. C. J. Call Mr. *Gwyn* to give an account where he found these Papers. Look you Gentlemen of the Jury, you hear what his Evidence is, would you ask him any thing while he is here?

Then Mr. Gwyn *coming in,*

L. C. J. Where had you the Trunk you delivered to Mr. *Blaithwait?*

Gwyn. My Lord, on the second of *July* by a Warrant from the Secretary I was commanded to go to my Lord *Shaftsbury*'s House to Search his Papers, I did there meet with a great many Papers, and I took a Note how I had parted them, and into what parcels I had put the Papers; there were several sorts of them in a great Hair Trunk, and there was a Velvet Bag in which I put some Papers that were loose in my Lords Closet above stairs. My Lord *Shaftsbury* as soon as I came, gave me the Keys, and told me where his Closets were, and said he would Seal them up with his own Seal: I staid for it, but he sent me word by a Gentleman that I might put my own Seal if I pleased: I did put my Seal upon the Trunk, but afterwards being sent another way, I delivered it to this Gentleman Mr. *Blaithwait:* whether any of the Papers were taken out afterwards I cannot tell.

L. C. J. Mr. *Gwyn*, that your Evidence may be the better understood, tell me, were all the Papers that were in that Velvet Bag in my Lord *Shaftsbury*'s Closet?

Mr. Gwyn. In my Lord *Shaftsbury*'s Closet above-stairs.

L. C. J. This you swear; when you delivered it to Mr. *Blaithwait*, all the Papers were in that Bag; was there nothing in that Bag, but what you took in my Lord *Shafsbury*'s Closet?

Gwyn. Nothing, my Lord.

L. C. J. Look you Gentlemen, you do observe that this Paper was put into the Bag by Mr. *Gwyn*, and Mr. *Blaithwait* Swears he found it in the Bag, and delivered it to Mr. Secretary *Jenkins*; therefore if you please Mr. Secretary *Jenkins* you shall be Sworn whether that Paper was delivered to you by Mr. *Blaithwait*, because we would clear it as we go, whether that be the Paper was delivered to Mr. Secretary *Jenkins* by Mr. *Blaithwait*: I pray Sir, was that the Paper that Mr. *Blathwait* did deliver into your hands?

Mr. Sec. Jenkins. My Lord this is the Paper, this Paper was delivered into my hands by Mr. *Blathwait* in the Council-Chamber. I cannot say that this numerical Paper was taken out of the Velvet Bag; but there were a great many Papers taken out of it, and I having the honor to be at the Examination of the Papers; this was ordered to be put (and was put) into my hands with nine Papers more.

L. C. J. Was it out of your hands?

Mr. Sec. Jenkins. It was out of my hands; for upon *Monday* last I took out the nine Papers intrusted with me, and this tenth out of my Desk, and caused my Servant to mark them by numbers. Then I Sealed up these Papers and sent them to Mr. *Graham*, Mr. *Graham* brought them back again to me without any alteration whatsoever; then I put this tenth Paper into the hands of Mr. *Blathwait* again. All the while it was in my hands, it was under Lock and Key, and none of my Servants saw it, but the time it was Numbred; and no manner of alteration was made in this, or any other of the nine Papers.

Lord,

Lord Chief Justice. Now it appears this was the Paper taken in my Lord *Shaftsbury*'s Closet.

Then this Paper was Read as followeth.

WE *the Knights, &c. finding to the grief of our Hearts, the Popish Priests and Jesuits, with the Papists and their Adherents and Abettors have for several years last past pursued a most pernicious and hellish Plot, to root out the True Protestant Religion as a pestilent Heresie, to take away the Life of our Gracious King, to subvert our Laws and Liberties, and to set up Arbitrary Power and Popery.*

And it being notorious that they have been highly encouraged by the Countenance and Protection given and procured for them by J. D. *of* Y. *and by their Expectations of his Succeeding to the Crown, and that through crafty Popish Councils his Designs have so far prevailed, that he hath created many and great Dependents upon him by his bestowing Offices and Preferments both in Church and State.*

It appearing also to us, That by his Influence Mercenary Forces have been levied and kept on foot for his secret Designs contrary to our Laws; the Officers thereof having been named and appointed by him, to the apparent hazard of his Majesties Person, our Religion and Government, if the danger had not been timely foreseen by several Parliaments, and part of those Forces with great difficulty, caused by them to be disbanded at the Kingdoms great Expence: And it being evident, that notwithstanding all the continual endeavours of the Parliament to deliver his Majesty from the Councils, and out of the Power of the said D. *yet his Interest in the Ministry of State and others have been so prevalent, that Parliaments have been unreasonably Prorogued and Dissolved when they have been in hot pursuit of the Popish Conspiracies, and ill Ministers of State their Assistants.*

And

And that the said D. *in order to reduce all into his own power hath procured the Garrisons, the Army and Ammunition, and all the power of the Seas and Soldiery, and Lands belonging to these three Kingdoms to be put into the hands of his Party and their Adherents, even in opposition to the Advice and Order of the last Parliament.*

And as we considering with heavy Hearts how greatly the Strength, Reputation and Treasure of the Kingdom both at Sea and Land is Wasted and Consumed, and lost by the intricate expensive management of these wicked destructive Designs; and finding the same Councils after exemplary Justice upon some of the Conspirators, to be still pursued with the utmost deviliſh Malice, and desire of Revenge; whereby his Majesty is in continual hazard of being Murdered to make way for the said D.*'s Advancement to the Crown, and the whole Kingdom in such case is destitute of all Security of their Religion, Laws, Estates, and Liberty, sad experience in the Case,* Queen Mary *having proved the wisest Laws to be of little force to keep out Popery and Tyranny under a Popish Prince.*

We have therefore endeavoured in a Parliamentary way by a Bill for the purpose to Bar and Exclude the said Duke from the Succession to the Crown, and to Banish him for ever out of these Kingdoms of England *and* Ireland. *But the first means of the King and Kingdoms Safety being utterly rejected, and we left almost in Despair of obtaining any real and effectual security, and knowing our selves to be intrusted to Advise and Act for the preservation of His Majesty and the Kingdom, and being persuaded in our Consciences that the dangers aforesaid are so eminent and pressing, that there ought to be no delay of the best means that are in our power to secure the Kingdom against them. We have thought fit to propose to all true Protestants an Union amongst themselves by solemn and sacred promise of mutual*

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Defence and Aſſiſtance in the preſervation of the true Proteſtant Religion, His Majeſties Perſon and Royal State and our Laws, Liberties and Properties, and we hold it our bounden Duty to joyn our ſelves for the ſame intent in a Declaration of our United Affections and Reſolutions in the Form inſuing.

I A. B. Do in the preſence of God ſolemnly Promiſe, Vow, and Proteſt to maintain and defend to the utmoſt of my Power, with my Perſon and Eſtate, the true Proteſtant Religion, againſt Popery and all Popiſh Superſtition, Idolatry, or Innovation, and all thoſe who do or ſhall endeavour to ſpread or advance it within this Kingdom.

I Will alſo, as far as in me lies, Maintain and Defend his Majeſties Royal Perſon and Eſtate; as alſo the Power and Priviledg of Parliaments, the lawful Rights and Liberties of the Subject againſt all Incroachments and Uſurpation of Arbitrary power whatſoever, and endeavour entirely to Diſband all ſuch Mercenary Forces as we have reaſon to believe were Raiſed to Advance it; and are ſtill kept up in and about the City of London, to the great Amazement and Terror of all the good People of the Land.

Moreover J. D. of Y. having publickly profeſſed and owned the Popiſh Religion, and notoriouſly given Life and Birth to the Damnable and Helliſh Plots of the Papiſts againſt his Majeſties Perſon, the Proteſtant Religion, and the Government of this Kingdom; I Will never conſent that the ſaid J. D. of Y. or any other, Who is or hath been a Papiſt, or any ways adher'd to the Papiſts in their Wicked Deſigns, be admitted to the Succeſſion of the Crown of England; But by all lawful means and by force of Arms, if need ſo require, according to my Abilities, Will oppoſe him, and endeavour to Subdue, Expel and Deſtroy him, if he come into England, or the Dominions thereof, and

ſeek by force to ſet up his pretended Title, and all ſuch as ſhall Adhere unto him, or raiſe any War, Tumult, or Sedition for him, or by his Command, as publick Enemies of our Laws, Religion and Country.

To this end we and every one of us whoſe hands are here underwritten, do moſt willingly bind our ſelves and every one of us unto the other joyntly and ſeverally, in the Bond of one firm and loyal Society or Aſſociation, and do promiſe and vow before God, That with our joynt and particular Forces we will oppoſe and purſue unto Deſtruction all ſuch as upon any Title whatſoever ſhall oppoſe the Juſt and Righteous Ends of this Aſſociation, and Maintain, Protect and Defend all ſuch as ſhall enter into it in the juſt performance of the true intent and meaning of it. And leſt this juſt and pious work ſhould be any ways obſtructed or hindered for want of Diſcipline and Conduct, or any evil minded perſons under pretence of raiſing Forces for the ſervice of this Aſſociation, ſhould attempt or commit Diſorders; we will follow ſuch Orders as we ſhall from time to time receive from this preſent Parliament, whilſt it ſhall be ſitting, or the Major part of the Members of both Houſes ſubſcribing this Aſſociation, when it ſhall be Prorogued or Diſſolved: and obey ſuch Officers as ſhall by them be ſet over us in the ſeveral Countreys, Cities, and Burroughs, until the next meeting of this or another Parliament; and will then ſhew the ſame Obedience and Submiſſion unto it, and thoſe who ſhall be of it.

Neither will we for any reſpect of Perſons or Cauſes, or for Fear, or Reward ſeparate our ſelves from this Aſſociation, or fail in the Proſecution thereof during our Lives, upon pain of being by the reſt of us proſecuted, and ſuppreſſed as Perjur'd Perſons, and Publick Enemies to God, the King, and our Native Countrey.

To which Pains and Puniſhments we do voluntarily ſubmit our ſelves, and every one of us without benefit of any Colour or Pretence to excuſe us.

In Witneſs of all which Premiſſes to be inviolably kept, we do to this preſent Writing put our Hands and Seals, and ſhall be moſt ready to accept and admit any others hereafter into this Society and Aſſociation.

Sir Fr.

Sir Fr. Withins. This Paper is very plauſibly penned in the beginning, and goes a great way ſo, but in the laſt clauſe but one, there they come to perfect levying of War; for they do poſitively ſay, they will obey ſuch Officers as either the Parliament or the major part of them, or after the Parliament is diſſolved, the major part of thoſe that ſhall ſubſcribe this Paper ſhall appoint; they will obey all ſuch Officers.

Foreman. Pray what date is this Paper of?

Sir Fr. Withins. It was after the Bill for the Excluſion of the Duke of *York*, for it ſays that way failing, they would do it by force.

Foreman. There is no hand to it at all?

Sir Fr. Withins. No, none at all. One thing I had forgot, That they would joyn to deſtroy the Mercenary Forces about *London*, which is down-right levying of War againſt the King and his Guards.

Mr. Sanders. The deſign of it is pretended to oppoſe Popery and Arbitrary power, and deſtroy the Papiſts; but that doth not ſeem ſo much in its ſelf: but when you have heard the Evidence you will hear who were the Papiſts that were to be deſtroyed by this Army.

John Booth.

Jury. He has ſtood in the face of the Court all this while.

L. C. J. When did Mr. *Booth* come down?

Jury. He was here before we went up, my Lord, and hath been here ever ſince.

L. C. J. Look ye, Gentlemen, they tell you he was carried away, and came down but now.

Mr. Booth. No my Lord, I came down but now.

Mr. Shepherd. My Lord, we deſire a Liſt of their Names, that we might know who is here, and who is not.

Mr. Godfrey. This man hath been here all this while, and all the others may be here, for ought that I know.

Sir Fr. Withins. In the firſt place give an account what diſcourſe you have had with my Lord *Shaftsbury*.

L. C. J. Speak out that the Jury may hear you.

Booth. I will ſpeak as loud as I can. In the month of *January*, about the middle of *January* laſt, I was introduc'd into my Lord *Shaftsbury*'s acquaintance by one Captain *Henry Wilkinſon*. I ſay I was introduc'd into my Lord *Shaftsbury*'s acquaintance by one Captain *Henry Wilkinſon*. This Captain *Wilkinſon* is a *Yorkſhire* Gentleman, he has known me above twenty years, and he and I have had familiar converſation a long while; ſo waiting upon my Lord *Shaftsbury*, our firſt buſineſs that we went about was, Captain *Wilkinſon* did pretend to receive a Commiſſion from my Lord *Shaftsbury*, and ſome others of the Lords Proprietors of the Palatinate of *Carolina* to be their Deputy-Governor; and he told me the proſpect of that Journey was like to be very hopeful, and that his intereſt was good, and that he could procure me a Commiſſion, and ſuch a number of Acres for quality and quantity as I did deſire: and he ſaid he did not deſign to go over immediately in his own perſon, but he would ſend his eldeſt Son, and his youngeſt Son, and if he went, he would return again as occaſion ſhould ſerve. I conſented to him in all this, and we diſcours'd it divers times together, and we went to my Lord *Shaftsbury* on purpoſe to receive Commiſſions in order to this purpoſe. The firſt time I went there was the Earl of *Craven*, *Peter Colbert*, one *Archdell* a Quaker; I thought

thought him a Quaker becauſe he kept his Hat on, when the reſt of the Lords ſtood bare in civility to him. We diſcours'd the thing about *Carolina*. After this, and before, Captain *Wilkinſon* and I had ſeveral diſcourſes about the juncture of Affairs in theſe times, tho I knew him to be an old Royalliſt, and one that ſerved his Majeſty and his late Father very much in the Wars; yet being under great diſappointments of Preferments at Court, and miſſing the Reward he expected from the King, his heart was turned another way, and he had repented himſelf of thoſe Services he had done for the King, and was become a man of another Opinion; and there was ſome inducements upon me that I was inclin'd to the ſame opinion: ſo he expreſs'd himſelf to my Lord, and ſo from one thing to another we went on in diſcourſe, and related the ſeveral Parliaments, and the Proroguing them, and the Diſappointments of the People, and the fear of Popery and Arbitrary Power: and this was not done once, nor twice, nor ten times; for I cannot enumerate them, for we kept a continual Club, and convers'd together familiarly near three quarters of a year. After this firſt acquaintance with my Lord *Shaftsbury* at his houſe, I did frequently go with Captain *Wilkinſon*, and between Chriſtmaſs and *March* four or five times: and I obſerved this, that when we came to my Lord *Shaftsbury*'s they were cautious in our acceſſion: In the firſt place it was to be known by ſome of the Servants, who he was in company with: And in the ſecond place the names were ſent up, who they were, that were to ſpeak with him: Sometimes we had an Alehouſe at the Bell in the ſame Street: (I forget the name of the Street) we ſtaid at the Alehouſe till we had a fit time, Captain *Wilkinſon* had acquaintance with his Porter and his Gentleman of his Chamber: and ſo we often diſcours'd. And from the concerns of *Carolina* we fell to matters more publick concerning the State. I remember he would uſe to inveigh ſharply againſt the times, and look upon himſelf as not ſo valued, nor ſo reſpected, nor in thoſe places and dignities as he expected he ſhould be, and ſeem'd to be diſcontented, and he did fear that Popery would be introduced, and Arbitrary Power: and when Parliament-men were to be Elected, there came every week news, bringing particulars of ſuch Boroughs and Counties as had made particular Elections for Members for Parliament; whether Knights, Citizens, or Burgeſſes: And he would often conſider that Parliament that was to ſit at *Oxford*, what they were as to their Inclinations and Diſpoſitions: and he ſaid, they would inſiſt upon the ſame things the other Parliaments before had done. Particularly he ſaid the Parliament would never grant the King any aſſiſtance of Money, nor ſatisfie him in thoſe things that he deſired, unleſs he gave the people firſt ſatisfaction in thoſe things that they inſiſted on before, and he believed would inſiſt upon after; and particularly the Bill of Excluding the Duke of *York* from the Crown: another was the aboliſhing the Statute of the 35th. of *Elizabeth*: and the third was giving his Royal Aſſent for the Paſſing a new Bill whereby all Diſſenting Proteſtants, Nonconformiſts, or what you will term them, ſhould be freed from thoſe Penalties and Eccleſiaſtick Puniſhments that they are ſubject to by the preſent Eſtabliſht Law: and he ſaid, if theſe and ſome other wholeſome Laws and Bills were paſt by the Royal Aſſent of the King, he believed that when the people had received this Security and Satisfaction, that they would be very willing to grant the King ſuch accommodations of Money by way of Aſſeſſment, or ſo, as his neceſſary occaſions ſhould alſo require: but without this he believed, there would be a breach between the King and the

Par-

Parliament, and that they had order'd the Parliament ſhould meet a *Oxford*, and not at this Metropolis at *London*, where they might go on[t] without fear of being over-awed: that this was an intention to awe the Parliament. But he ſaid, himſelf and divers Noble Lords, and Members of the Houſe of Commons had conſidered themſelves and their own ſafety, and that they judg'd it dangerous to go to *Oxford*, where they were ſure the Guards, the Retinue of the Court, and the Aſſiſtance of the Scholars (which uſually incline to the Crown) might ſo over-awe the Parliament, that they might not ſo freely proceed in a way for the publick Good as they intended; and therefore he and others had conſider'd with themſelves, that it were fit for them to have Guards and ſend them thither; and to this purpoſe he had eſtabliſht a matter of fifty men, perſons of Quality, that he believed would have men along with them; and he intruſted Captain *Henry Wilkinſon* with the Command of theſe men, and they were to come to *Oxford* at ſuch a time, and if there were any breach between the King and the Parliament, or any Violence offer'd to any of theſe Members by the Guards, or Retinue of the Court, that then theſe men with others that other Lords had provided, ſhould repel his Force, by greater Force, and ſhould purge the Guards of all the Papiſts and Tories, and ſuch as were againſt the Proteſtant Religion, and the Eſtabliſht Laws of the Land; and likewiſe theſe men ſhould be ready to aſſiſt himſelf, and thoſe other perſons in his Confederacy, to purge from the King thoſe Evil Counſellors which were about him: particularly there were named, the Earl of *Worceſter*, my Lord *Clarendon*, my Lord *Halliſax*, my Lord *Feverſham*, and Mr. *Hide*, now Lord Viſcount *Hide*; and theſe perſons were look'd upon to be dangerous, and gave the King evil Advice, and made him continue ſo very deaf to what the Parliament urg'd him to; and therefore they ſaid they would not only purge the Guards, and repel that Force by a greater Force, but alſo take thoſe Lords by Violence from the King, and bring the King to *London*, to the chief Metropolitan City, where thoſe things ſhould be eſtabliſht, which they deſign'd for their ſafety in theſe two reſpects, for the preſerving the Proteſtant Religion, and likewiſe for the keeping and defending us ſafe from Arbitrary Power and Government. Upon this Captain *Wilkinſon* did deſire me that I would be one of thoſe under his Command: this I did conſent to. And he requeſted me further, that I would provide for my ſelf Horſe and Arms; and likewiſe Arms for my man, and he would provide me a Horſe for my Man. I did accordingly provide Arms for my ſelf, and a good Stone-Horſe for my ſelf, and Arms for my Man before the Parliament did ſit at *Oxford*. I think the 23d. of *March*, I do not punctually remember the day, and when the Parliament was ſet, we enquir'd and heard how things went on, and found that it was as my Lord *Shaftsbury* had predicted, that the Parliament did inſiſt upon thoſe very things that he told they would do, but never believ'd or imagin'd they would be ſo ſoon diſſolv'd. Upon *Thurſday* before the Parliament was diſſolv'd, Captain *Wilkinſon* told me he expected that very Week to have a Summons to go up to *Oxford* with thoſe men that were liſted with him; but then *Saturdays* news came of the Diſſolution of the Parliament, and therefore it took no further effect. The whole matter, the main deſign was this, That my Lord *Shaftsbury* ſhould have ſo many men to attend him there for the ſecurity of his perſon, and likewiſe to repel the force of the Kings Guards, or any other perſons that followed the King; and alſo to remove from him thoſe five

Lords and bring the King back to *London*, to Eſtabliſh thoſe Laws that I have mention'd.

Sir Francis Withins. Pray what time did you diſcover this?

Booth. About ſix weeks ago.

Sir Francis Withins. Had you any diſcourſe with the Earl of *Shaftſbury* after Captain *Wilkinſon* ſpoke with you, or before the ſitting of the Parliament.

Booth. I ſaid before that the firſt motion of theſe fifty men that were to be my Lord *Shaftsbury*'s Guard came from Captain *Wilkinſon*; but after this when I went with Captain *Wilkinſon* to my Lord *Shaftsbury*, the ſame thing was diſcourſed there. The laſt time I was with my Lord *Shaftſbury* was about a week before he went to *Oxford*, about ten days before the Parliament ſet, or a week, and then I heard the ſame diſcourſe from my Lord *Shaftsbury*'s own mouth.

Sir Fr. Withins. Had you any other diſcourſe with my Lord *Shaftſbury*?

Booth. I ſay I made three or four Viſits between *Chriſtmaſs* and *March*, and we had diſcourſe every time particularly about the Kings perſon, and if the King did refuſe theſe motions, that then theſe men were to be taken from him, and he repell'd with a greater force, and be brought to it by force.

Sir Fr. Withins. Did you ever make any ſolicitation to any to make this Diſcovery?

Booth. Thus far I did, and I will tell you the whole matter in that point; there was one *Walter Banes* an acquaintance of mine, and I found that he had at *Wilkinſon*'s requeſt engaged himſelf in ſome buſineſs that one *Brownrig* an Attorney in *Yorkſhire* had writ to him about, concerning ſome men that were to Swear againſt my Lord *Shaftsbury*. I asked Mr. *Banes* what men theſe were, he ſaid, he thought they were *Iriſh-men*. I ſaid, I don't know what Converſation in that nature my Lord *Shaftsbury* might have with *Iriſh-men*, for I know none of them; but I am ſatisfied that he had Converſation tending to theſe ends that you ſpeak of with ſome *Engliſh-men*, and that I know. This Mr. *Banes* did take particular notice of, and he was very frequently upon me to tell him what the matter was, and I gave him ſome intimation of it. Truly 'twas very much upon my ſpirit, and I could not tell whether I was able to carry it through or not, or had better to let it alone as it was in ſilence: but diſcourſing ſtill more with him, and at the reſult of that diſcourſe we had by degrees, I did give him ſome intimation of it. And after that upon ſecond thoughts I took a reſolution to diſcover it: and when I did diſcover it, I do here in the preſence of God declare, that no mortal did know any thing of what I had to ſay, in reference to the King; nor did I make any more applications in the world, but took Pen, Ink, and Paper, and writ it down, and ſealed it under a Cover and ſent it to the Council.

Sir Fr. Withins. Gentlemen of the Jury, would you ask him any Queſtions?

Mr. Papillon. The Jury told your Lordſhip before, that after all had been examin'd they would conſider what Queſtions.

L. C. J. Where would you have theſe Witneſſes that have been examined to ſtand?

Mr. Pa-

Mr. Papillon. We leave it to the Sheriffs to appoint a place for them.

Lord Chief Juſtice. To keep them apart it's utterly impoſſible, for we muſt have as many Rooms then as there are Witneſſes.

Jury. Let one man keep with them.

L. C. J. Empty that place where they were the laſt time, and let them ſtand there.

Edward Turberville.

Sir Francis Withins. Mr. *Turberville*, have you had any diſcourſe with my Lord *Shaftsbury?*

Turberville. Yes ſeveral times. In *February* laſt, I am not poſitive in the time, but about the beginning of the Month, I waited upon my Lord *Shaftsbury*, about ſome moneys. I waited upon him to have his Advice how I might come by't, and to gain my Lord *Shaftsbury*'s Letter in my behalf to the Preſident of the Council to ſtand my friend; and he ſaid there was little good to be had from the King, as long as his Guards were about him; for were it not for his Guards, we would quickly go down to *Whitehal* and obtain what terms we thought fit. Said I, my Lord, I ſuppoſe his Guards can't defend him from the whole Kingdom. His Lordſhip ſaid, That the Rabble were all of that ſide, eſpecially the People about *Wapping*, and *Alderſgate-ſtreet*; and the Rich men of the City would Vote for Elections; but they could not expect they ſhould ſtand by them in caſe there ſhould be any Diſturbance, for they valued their Riches more than their Cauſe. And at *Oxford* I heard my Lord ſay again, He wonder'd the people of *England* ſhould ſtickle ſo much about Religion, and that if he were to chooſe a Religion, he would have one that ſhould comply with what was apt to carry on their Cauſe.

Mr. Sanders. Had you any other diſcourſe with him at any other time?

Maſter Turberville. I told you all that is material that I can ſay to it.

John Smith.

Mr. Smith. My Lord, I only beg a word or two from your Lordſhip of ſome reflections caſt upon me.

L. C. J. Go to your Evidence.

Mr. Smith. My Lord, this is ſomething to my Evidence.

L. C. J. You may take another time for that.

Mr. Smith. My Lord, it hath been reported about in Coffee-houſes and Taverns, that I ſhould Swear there was a general Deſign againſt his Majeſty; and that I Swore it before the King and Secretary of State; and that I alſo Swore it at the Tryal of Mr. *College* and Mr. *Rowſe*: I take it upon my Oath I never Swore any ſuch thing, neither can I Swear there was a General Deſign by the City, or the Parliament againſt the King.

Lord

Lord Chief Juſtice. Speak what diſcourſe you have had with my Lord *Shaftsbury.*

Mr. Smith. My Lord, I ſuppoſe it is paſt all doubt, that I have been very often with my Lord *Shaftsbury*; and I have often in his diſcourſe obſerved that he ſpake very irreverently and ſlightly of the King; ſometimes ſaying he was a Weak man, and ſometimes ſaying he was an Inconſtant man; a Man of no firm or ſettled Reſolution; and a Man that was eaſily led by the Noſe, as his Father was before him, by a Popiſh Queen, which was the Ruine of his Father: This was both in publick and in private. I have alſo obſerved ſometimes in his diſcourſe, ſomething that he mention'd of the Earl of *Eſſex*; and that the King ſhould declare, That the Earl of *Shaftsbury* was not ſatisfied to be an ill man himſelf, but got over the Earl of *Eſſex* too: This the Earl of *Shaftsbury* declar'd publickly in his own houſe. Another ſtory was of the Rebellion of *Scotland*, That the King ſhould ſay that the Earl of *Shaftsbury* was the chief Promoter of that Rebellion; and when this was told my Lord *Shaftsbury*, that he ſhould ſend word back again to the King, "I am glad (ſays he) that the "King ſees not his own Danger, nor what he runs himſelf into: and "pray tell him, that, if I were to raiſe a Rebellion, I could raiſe an- "otherguess Rebellion than the Rebellion was in *Scotland.* But now as to the particular points I am to charge him with, I remember my Lord, that my Lord *Shaftsbury* ſent for me one time, and that by one *Manly*; ſometimes they call him Major *Manly*, ſometimes Captain *Manly*; and this man found me at Mr. *Bethel's* Club in *Newgate-ſtreet* at the Queens Arms; and there he told me my Lord *Shaftsbury* would ſpeak with me that night. I immediately left the Club, and went to my Lord *Shaftsbury's*; and I was introduc'd into the Dining Room, where there were two Gentlemen in diſcourſe with my Lord; and as ſoon as he ſaw me, he askt me how I did: I told him I was very well, and came in obedience to his Lordſhips Command to wait upon him; for Major *Manly* told me your Lordſhip had a mind to ſpeak with me: he ſaid he had. Soon afterward, theſe two Gentlemen went away. Upon this my Lord turns about, Mr. *Smith*, ſaid he, Mr. *Hetherington* was with me this morning, and told me he was afraid that the Iriſh Witneſſes would go over to the Court Party, and retract what they had ſaid formerly. My Lord, ſays I, I know no perſon can better and with more eaſe, hinder that than your Lordſhip, by procuring ſome ſmall Allowance for them; for they complain much of Poverty. Says he, Maſter *Hetherington* has the charge of them, and hath a ſpecial care of them, and I believe they don't want. My Lord, ſays I, I know nothing of that, he knows what proviſion he hath made for them. This is the thing, ſaid my Lord, that I would have you do, they ſtand in great awe of you, and you muſt perſuade them from going nigh that Rogue *Fitz-Gerrald*, that great Villain, that is pamper'd up, and maintain'd by the King and the Court Party, to ſtifle the Plot in *Ireland*. My Lord, ſays I, do you think the King would be at ſuch vaſt charges for to bring

bring over Witneſſes, and at laſt maintain men to ſtifle this Plot, for that is the way to ſtifle the Plot in *England* too, as well as that. Sayes he, what is this Frequent Diſſolutions and Prorogations of Parliaments for, but to ſtifle the Plot here, and to hinder the Lords in the Tower to come to a Tryal? This is a ſtrange thing my Lord, ſaid I, when he gave Dr. *Oats*, Mr. *Bedlow* and Mr. *Dugdale* ſuch large allowances to proſecute this Plot. Sayes my Lord, that is nothing, that may hold for a year or two, he may take it off when he will, but the chief means are put by whereby we might find out the depth of this Plot, and if Mr. *Dugdale* and Dr. *Oates* be knock't on the head, then where is this Plot? then there will come an Act of Oblivion for them, and all things will be well as they were before. My Lord, ſaid I, this is very ſtrange to me. I can give you inſtance of it, ſayes he, when I was lately in the Tower, I told ſome I ſaw Popery coming in, and that it was hard to prevent it. I am ſorry to hear it, ſaid I, but what would you have me do with theſe *Iriſh* Witneſſes? Say's he, perſwade them not to go near *White-hall*, nor this *Fitzgerrald*. And, ſaid he, one thing more, I would have you mind, Mr. *Smith*, that if the King were not as well ſatisfied with the coming in of Popery as ever the D. of *York* was, do you think the D. of *York* would be ſo much concern'd in the bringing in of Popery as he is? I am ſorry for it, my Lord if it be ſo, After this I parted with my Lord *Shaftsbury*, with full inſtructions from him to thoſe *Iriſh* Witneſſes. I met Mr. *Hetherington* the next morning, and I told him that I was with my Lord *Shaftsbury*: ſayes he, I know your buſineſs and would have you meet us at the Sun Tavern in the Afternoon. My Lord, I went according to the time appointed, and met him at the Sun Tavern between 6, or 7, or 8 of the Clock, as near as I can remember. When I came to them I began to open thoſe great and horrid Crimes that I heard Mr. *Fitzgerrald* accuſed of, That he was a man came to diſcover a Plot, and diſowned it here, and retracted all he had ſaid. I told them what a Crime this was. In ſhort, my Lord, they promiſed never to go near the man. I parted that night and came to my Lodging, and the next morning Mr. *Hetherington* and one Mr. *Bernard Dennis* came to my Lodging and told me, That this *Bernard Dennis*, was ready to give in Information againſt *Fitzgerrald*, that he had tamper'd with him to forſwear all he had ſworn before. I went preſently with Mr. *Hetherington* and Mr. *Dennis* to my Lord Major, who was then Sir *Patience Ward*; after we had told the buſineſs to Sir *Patience Ward*, Sir *Patience* ask't this *Dennis* if there were any other perſons preſent. Yes, ſayes he, there was. Sayes Sir *Patience*, you are upon your Oath, if you know not the Nature of an Oath, I will tell you. The Information was drawn up; the Copy of this Information I carry'd to my Lord *Shaftsbury* and ſhew'd it him, he read it, and was very well pleas'd with it, and ſaid, Mr. *Smith*, don't you ſee the Villany of that man and that factious Party, and that the King runs the ſame Steps as his Father did before him, how can any thing of this Nature be done without the King and the Court pamper'd him up? My Lord, ſaid I, I think now the thing is clear. I, ſayes he, theſe are the very ſame Steps that his Father followed when he was led by his Popiſh Queen, and the poor man doth not ſee his Danger. I parted from my Lord, and came, and gave an account of this very diſcourſe to the Club in *Newgate*-ſtreet, and they were glad of it, and I told what my Lord *Shaftsbury* ſaid, That the King would never be quiet till he came to his Fathers end, he follow'd the ſame ſteps. Another thing that I have obſerv'd particularly before the Parliament went to *Oxford*, I went to ſee him, and wee fell into ſome diſcourſe,

and my Lord ſaid there was great preparations made, and a great many gather'd together upon the Road between *London* and *Oxford*. My Lord, ſaid I, what is the meaning of that? Any body may ſee, ſay's he, that is only to terrifie the Parliament to comply with the King's deſire, which I am ſure the Parliament never will, for we are as reſolute now as ever; and more reſolute, for we ſee clearly what the King Aims at, and that is to bring in Popery. Which I told ſeveral years ago, and when I was laſt in the Tower; but, ſayes he, we have this advantage of him, if he offer any Violence to us, (For we expect it,) that we have the Nation for us, and we may lawfully oppoſe him, and he will meet with a very ſtrong oppoſition; for all that come out of the Countrey, ſhall be well Hors'd and well Arm'd, and ſo we ſhall be all, and here is the City which now has a queſtion in Debate among them, whether they ſhall bear the charge of their own Members or no, but they are willing to do it, and ſend ſo many men to wait on them, and if we oppoſe the King, as we may do, for it hath been done in former times, the whole Nation is to ſtand by us, and as I ſaid when I was in the Tower, I would dye, before I would ever bring in Popery or any thing of that Nature.

Jury. Repeat that again.

Smith. He ſaid, that the King, if he offer'd any Violence at *Oxford* to the Parliament, he would meet with a ſtrong oppoſition, and that the Gentlemen that came out of the Country were well provided with Horſe, Arms, and Men, to oppoſe him, and that they might lawfully do it if the King offered any Violence to them whilſt they ſat, and that the Nation ſtood by them, and that they did repreſent the Nation, and that for his part he and all his Friends would do it to the utmoſt of their Power, and, as Old as he was, he would be one that would oppoſe it to his power. My Lord, ſaid I, we can expect nothing but Confuſion, from this Parliament in this Nature, for then we ſhall be involved in another Civil War, nothing elſe can put an end to our Miſeries, or make this Nation a ſettled Nation, but a Civil-War. Then my Lord ſaid I, by this means wee ſhall make an end of Monarchy, or elſe inſlave the Nation to Popery for ever. No doubt of one ſay's he, but we are ſure of one, for the Nation is of our ſide, and the City you know how they are, and where ever they Strike, I am ſure the Nation will, and this I'le ſtand and dye by. This is the ſubſtance of what I have to ſay againſt my Lord *Shaftsbury*, and upon the Oath I have taken, I am ſure I have not added a Word. One Word more I have to ſay, 'Tis reported I have been hired and Suborn'd, I do admire why this City of *London*, where there are as worthy men, and as great Lovers of the King and Government as any in the World, ſhould ſay any ſuch thing; I was never Suborn'd by them, nor never took a farthing of their money, nor never took a farthing of the King in my life.

L. C. J. Who ſuppoſes it?

Mr. *Smith.* 'Tis in print, my Lord, 'twas in the Book that came out laſt night, it is ſuppos'd, my Lord, for it is in print.

L. C. J. I had reaſon to expect that there was no ſuch objection.

Brian Haines.

Mr. *Sanders.* Give your knowledge of what diſcourſe you have heard concerning my Lord *Shaftsbury*.

Mr.

Mr. *Haines.* Sir, I have heard him Villifie the King very often, and he told me about the Narrative that I made about Sir *Edmond-Bury Godfrey*'s death, Mr. *Ivey* and I went to him one day and he ſpoke to me of it, and I deſired him not to expoſe my perſon to the King's Anger, for I was ſure he would never grant a pardon to any man that impeached the Earl of *Danby*. Say's he, Do not fear, if he doth not grant you a pardon, he makes himſelf the Author of the Plot; and, ſay's he, the Earl of *Eſſex*, my Lord *Maxfield* and I, wee do all reſolve if you put in writing, we will go to the King, and beg a pardon of his Majeſty for you, and if he doth not grant it, we will raiſe the whole Kingdom againſt him; for, ſay's he, he muſt not expect to live peaceably in his Throne, if he doth not grant it. For he makes himſelf author of the Plot.

My Lord, ſaid I, he hath diſſolved ſo many Parliaments for the ſake of the Earl of *Danby*, and prorogued ſo many Parliaments, therefore he will never grant me this Pardon. Say's he, doe not fear, 'tis the beſt pretence we can have in the world, and if you will but put in writing, and let me read it, that I may give my opinion of it, the work is done; and if he doth not do it, we are prepar'd to raiſe Arms againſt him. I was with him another time after I made this Narrative, and he told me the two Mr. *Godfrey*'s were with the King at *Windſor*, and begged a pardon of his Majeſty for me, but the King would not grant it, but if he be an honeſt man, let him lye at my mercy, let him come in and declare what he knows. Said I, I would not have your Lordſhip expoſe my cauſe in theſe day's. This is the beſt time for it in the world, ſay's he, if he doth not do it, he can't expect to be long King of *England*. Pray my Lord ſaid I, what ſhall I do in the mean time? I will go beyond Sea, ſaid I. No, ſayes he, don't leave the Kingdom, he dares as well be hang'd as meddle with you. I deſir'd him a ſecond time not to expoſe me to the King's fury, and I prayed him to help me to a little money to go beyond Sea, for I was ſure I could not be ſafe in *England*. Sayes he, Have a care of your ſelf; but, ſayes he, he dares as well be hang'd as meddle with you. Then I was in cloſe conference with him one day, and I gave him ſo exact an account of all Tranſactions from King *Charles* the Firſt's Reign, the commencement or coming to the Crown to this very day, that he was mightily ſatisfied, finding by me that I was a Traveller, he was mightily pleaſed, and free with me. Pray my Lord, what Model do you take, or intend to do? Sayes he, Do you not think but there are Families in *England*, that have as great pretences to the Crown as the King? Sayes he, there is the Duke of *Bucks* in the right of his Mother, ſhe was deſcended from *Edward*, one of the *Edwards*, and in her Right he claimes the Barony of *Roſs*, he hath as great a Right to the Crown of *England*, as ever any *Stewart* of them all.

Jury. Speak that again.

Mr. *Haines.* I was in Conference with my Lord *Shaftsbury* one day, and I gave him an exact account of all Tranſactions, and I asked what they did intend to do with the Government, if they pull'd the King down. Sayes he, Do you think there are no Families in *England*, that have as much pretence to the Crown as any of the *Stewarts*? I know none my Lord, ſayes he, there is the Duke of *Bucks* that is deſcended of the Family of the *Plantagenets*; he named ſome of the *Edwards*, and in her right he ſhould have the Barony of *Roſs*, and in her Right he has as good a Title to the Crown of *England* as ever any *Stewart* had.

John Macnamarra Sworn.

Sir *Francis Withins.* Pray give an account to the Jury of what diſcourſe you have had with my Lord *Shaftsbury.*

John Macnamarra. My Lord, I was with my Lord *Shaftsbury* a little before he went to *Oxford*, before the Parliament ſat there, and my Lord told me at that time, that he would take care, together with thoſe that were with him at *Oxford*, for the Witneſſes that were concerned in the Popiſh Plot.

Mr. *Harriſon.* Speak out pray Sir.

John Macnamarra. My Lord told me he would take care, with thoſe that were with him, for the Witneſſes that were concern'd in the Popiſh Plot; after my Lord went to *Oxford*, I writ him a Letter, giving his Lordſhip to underſtand, That whereas his Lordſhip was pleaſed to promiſe, that he would take care of the Witneſſes, that he would be pleaſed to take care of me, as well as the reſt of the Witneſſes; after my Lord came home from *Oxford*, I went to him, to ſee what was done. His Lordſhip was pleaſed to expreſs himſelf and ſay, That the King was Popiſhly affected and did adhere to Popery, and that he took the ſame methods that his Father before him took, which brought his Father's Head to the block, and we will alſo bring his thither; and told me alſo, That he told ſome Perſons of Quality that this would fall out Five years before; at the ſame time my Lord told me, That there was a Collection of Money made, and that the meeting was at the Sun Tavern, and that there came a *Tory* Lord in to hinder their proceedings, but ſayes he, we do remove to Iron-monger-Lane, and ſayes he, you ſhall hear further in a fortnight. I came to my Lord a fortnight afterwards, and his Lordſhip was pleaſed to tell me, that there was proviſion made for the Witneſſes, and that it was in the hand of one Mr. *Rowſe* that was Servant to Sir *Thomas Player*; there was one Mr. *Ivey*, and I think my Brother was by too, when his Lordſhip ſpake theſe words; he ſaid that the King was a Faithleſs-man, that there was no Credit to be given to him, and that the Dutcheſs of *Mazarine* was his Cabinet Council, who was the worſt of Woman-kind. This is all that I have to ſay, my Lord.

Sir *Francis Withins.* Do you remember nothing at any other time?

John Macnamarra. No.

Sir *Francis Withins.* Did you hear any thing about depoſing the King?

John Macnamarra. Yes, he did at the ſame time ſay, the King deſerved to be depoſed as much as ever King *Richard* the Second did.

Dennis Macnamarra.

Mr. *Sanders.* Tell theſe Gentlemen whether you have had any diſcourſe with the Earl of *Shaftsbury.*

Dennis Macnamarra. He ſaid, my Lord, that the King was a man that ought not to be believed, and there was no belief in him, and that he ought

to

to be depoſed as well as King *Richard* the Second, and that the Dutcheſs of *Mazarine* was one of his Cabinet Council, and that he did nothing but by her Advice.

Sir *Francis Withins.* Begin again.

L. C. J. Raiſe your voice a little, for the Jury don't hear you.

Dennis Macnamarra. That the King is a man that ought not to be believed, that there was no belief in him, and that he ought to be depoſed as well as King *Richard* the 2*d.* and that the Dutcheſs of *Mazarine* was his Cabinet Council, and that he did nothing but by her conſent.

L. C. J. Who was with you at that time?

Dennis Macnamarra. There was Mr. *Ivey*, and my Brother at his own Houſe.

L. C. J. When was this?

Dennis Macnamarra. 'Twas at the latter end of *March* or the beginning of *April.*

Sir *Francis Withins.* You ſay Mr. *Ivey* was by at the ſame time?

Dennis Macnamarra. Yes.

Sir *Francis Withins.* Call Mr. *Ivey.*

Jury. What place was it in?

D. Macnamarra. In his own houſe.

Edward Ivey ſworn.

Mr. *Ivey.* My Lord, ſoon after the Parliament was diſſolv'd at *Oxford*, I was at my Lord *Shaftsbury's* houſe, where he was ſpeaking againſt the King, and ſaid, that he was an unjuſt man, and unfit to Reign, and that he was a Papiſt in his heart, and would introduce Popery.

Jury. Say that again.

Mr. *Ivey.* I tell you I was at my Lord *Shaftsbury's* houſe, where he was then ſpeaking againſt the King, ſaying that he was altogether unjuſt and not fit to Reign, and he wonder'd he did not take example by his Father before him, and did really believe that he was a Papiſt in his heart, and intended to introduce Popery. I was ſometime after with him and

I told him one *Haines* had told me he had ſomething to diſcover about the death of Sir *Edmond-bury Godfrey* and ſeveral other things, and my Lord deſired to ſee him, and I brought Mr. *Haines* to his houſe, and he deſired him that what he had to ſay he would put in Writing, and he ſhould have a Pardon, and that if the King did deny it, as he dares not deny it, but if he does, we will riſe upon him and force him?

Sir Francis Withins. Had you any other diſcourſe, at other times?

Mr Ivey. Yes, I had other diſcourſe but not to this purpoſe.

Sir Francis Withins. Was you frequently with him?

Mr. Ivey, I was frequently with him; he deſir'd at the time I was with him to bid *Colledge* to come to him, and I went and came again to *Haines* with inſtructions how to proceed, and I took his examination of him, and carry'd it to my Lord, and he deſired it might be explain'd what he meant by the Tall Black-Man, and ſays he, if he does mean the King, he muſt explain himſelf, and ſpeak of the King, or the Duke of *York* or the reſt, and if he does, we will take care of him as long as he lives, but unleſs he does we will do nothing for him, and I was with him with my Lord *Shaftsbury,* and my Lord *Shaftsbury* did exclaim againſt the King.

Sir Francis Withins. What words did he ſpeak?

Mr. Ivey. He ſaid he was altogether an unjuſt Man and not fit to Reign, and that he believed he was a Papiſt in his heart, and deſign'd to Introduce Popery, and therefore they deſign'd to depoſe him, and ſet up another in his ſtead?

Sir Francis Withins. Do you remember any diſcourſe of *Richard* the Second, at that time?

Mr. Ivey, No Sir, I do not remember any thing of it.

Bernard Dennis Sworn.

Sir Francis Withins. Pray tell the Jury what diſcourſe you had with the Earl of *Shaftsbury* at any time, and what it was.

B. Dennis. My Lord, I came upon a deſign to make cleer the Plot in General, as far as I have travell'd, as in *Ireland, France, Spain, Maryland, Virginia* and *England,* and upon that account I was brought before a Juſtice of the Peace, in *Weſtminſter* in *November* laſt, this time 12 month, and Examin'd before Juſtice *Walcup,* a Juſtice of the Peace, and from thence to the Committee of the Houſe of Commons, of whom Collonel *Birch* (I believe he is here) was Chairman, and gave in my Evidence, and being called upon at the Tryal of the Earl of *Stafford,* I was commended as I ſuppoſe to the Earl of *Shaftsbury,* and upon the Account he ſent me word of it, by *William Hetherington,* who was then very intimate with the Earl of *Shaftsbury* to my knowledge; and *William Hetherington* came

came to me ſeveral times, and he preciſely was my maintainer at that time, that is, to find me what ever I wanted, and provide me my Lodging, and carry me to ſome place where accommodation might be more better for me. Upon this account one time the Earl of *Shaftsbury* ſent to me, deſiring that I would wait upon him at his own houſe. I came to him, and there in the Gallery of his own houſe, walking very ſlowly he told me, what I gave in of the Plot in general was very good and ſufficient, but as to the Queen and the Duke of *York*, that I ſhould ſpeak more home and poſitive againſt them, at leaſt that I might be a corroboration to others in what they Swore againſt them; This was all at that preſent time, that the Earl of *Shaftsbury* ſpake to me, and he deſired me to go home to his Lodgings. With that I went home, and within a Month it may be, or thereabouts, he ſent for me again, by the ſame *William Hetherington*, and *William Hetherington* told me, that the Earl of *Shaftsbury* would ſpeak with me. So I came and Waited upon his Lordſhip at his own Houſe, and ſay's he, Mr. *Dennis* I underſtand that you are a Clergy man. Yes my Lord, ſaid I. And ſay's he, I would adviſe you to take a black gown, and I will preferr you to a Benefice, till ſuch time as this buſineſs is over; and, ſays he, at the end of this buſineſs I will not fail to preferr you to a better, and in the mean time I would adviſe you to take a black gown: and this was a little, as I remember, after the Parliament was Diſſolv'd at *Oxford*; and he ſent a Gentleman out of his own Houſe along with me, to a Doctor of Divinity living hard by *Lincolns-Inn* Fields, Dr. *Burnet* by Name, as I remember, and the Gentleman acquainted the Doctor what I was, and about what occaſion I came there; ſo the Doctor indeed diſcourſed with me very familiarly, and rend'red thanks to the Earl for me into his converſation rather then another's. What diſcourſe we had then was nothing to the matter, it was about matters of Conſcience, and Religion. But Mr. *Colledge* that was the Joyner here in Town, and Executed afterwards, being familiar with me brought me to one Mr. *Ferguſon* a Miniſter, as I ſuppoſe of the Presbyterian form, for he goes in their garb as near as I can tell, and Mr. *Ferguſon* at our firſt meeting was in *Richard*'s Coffee-Houſe, in an upper room one pair of ſtairs, and in ſome company; and *Colledge* going to him brought him aſide, and ſpake to him concerning me, and he came to me apart, and diſcours'd with me; from whence he brought me to a Bookſeller's Shop. and bought for me the Articles of the Church of *England*, and in all theſe diſcourſes there was a hand, as *Colledge* told me, of the Earl of *Shaftsbury* who did procure him, and ſent to Dr. *Burnet* to bring me that way. I do not deny neither, that I had an inclination before I left *Ireland*, and when I was in *Spain*, and when I was in *France* for to become a Proteſtant, according to the Laws and Rules of the Church of *England*. The force of what I have to ſay is this, The Earl of *Shaftsbury* one day after all theſe things were paſt, and after the Parliament were diſſolved at *Oxford*, diſcourſing with me in his own Houſe, Major *Manley* being in the ſame Room then, who lives beyond *Tower-hill*, he asked me what was the preſent occaſion I came to him there, and it was pretty early in the Morning, and the Earl had a Barber to trim him in his Room. I told him my occaſion was then, That I was ſomething low in Money, that I did a little want money at that time, and did not know to whom to ſpeak for any thing but his Lordſhip, and ſaid I came to tell you ſo. Well, ſay'd he, Mr. *Dennis* I have appointed Mr. *Rouſe*,

John

John Rouſe whom you know, for to give you and maintain you in money; go to him eſpecially once a week, and he will give you money. And, ſaid he, Mr. *Dennis*, what is the Number of your name in the Country as near as you can tell, how many are you? My Lord, ſaid I, to tell you exactly what number they be of, I cannot at preſent, but within a little time, I may tell you. I believe really there may be upon the matter 3 or 400 able men of my Name, in the County where I was born. Say's the Earl of *Shaftsbury*, Mr. *Dennis*, I would very willingly have you to adviſe thoſe of your name, and thoſe of your Friends for to be in a readineſs, when ever occaſion ſhall ſerve, and to ſtand by, if occaſion ſhould be, for to aſſiſt the Commonwealth of *England*; for we do really intend to have *England* under a Common-wealth and no Crown; and, ſay's he, we intend to live as we ſee *Holland* does, that is, to have a Commonwealth, and to have no Supream head, particular man, ſay's he, or King, nor owe Obedience to a Crown; and, ſay's he, we will extirpate the King, and all his Family as near as he can; and Mr. *Dennis*, ſay's he, I do admire that your Nation ſhould be ſuch Fools as they are, for it is very certain that King *James*, Queen *Elizabeth*, King *Charles* the Firſt, ſay's he, and the King that now is, does wrong you to very deſtruction; and, ſay's he, if you had been under a Common-wealth, the Common-wealth would take more pitty of your Nation, and the Gentry of your Nation, then any doe of them now, in this time wherein the King Governs, and upon this I doe count the *Iriſh* fools. This is all that I can ſay.

L. C. J. The King's Council declare they will call no more Witneſſes, for they think they have called enough already, and there are ſeveral of them that doe ſwear Words that are treaſonable in themſelves, if you do deſire to ask any of the Witneſſes any thing, you ſhall have them all call'd one by one.

Fore-man. My Lord, we will walk up again, and Conſider what Queſtions to ask, and come again preſently.

Mr. *Papillon.* It ſeems they will call no more Witneſſes then theſe.

L. C. J. Not againſt the Earl of *Shaftsbury*, being you are charg'd only with that.

Mr. *Papillon.* It is ſo my Lord, but we pray we may be ſatisfyed upon the Statute the Indictment is grounded, becauſe we may hear it read before we go up, becauſe your Lordſhip ſpeak's of two different Statutes, the 25*th.* of *Edward*, and you mention the Statute of the 13*th.* of this King; your Lordſhip in your diſcourſe to the Jury mentioned them both, we pray your Lordſhip to acquaint us upon what Statute it is grounded, whether upon both or one of them.

L. C. J.

L. C. J. Look ye Gentlemen, this is grounded upon the Statute of this King, though there is enough to find an Indictment of Treason upon the Statute of the 25th of *Edward* the Third; that which is Treason within the Statute of the 25th of *Edward* the Third, is Treason within this Statute, so this is the more Copious Statute; for as I told you before, this Statute has enlarged that of *Edward* the Third in a great many Particulars; and therefore look ye Gentlemen, always consider this, when one Statute contains the Matter of another, and inlarges it, the Indictment is always upon the last Statute, that being the most Copious Statute: But you are to Consider both.

L. C. J. Nor. The Indictment is *Contra formam Statui'*, and it being *Contra formam Statui'*, it may be understood, *Statutorum* or *Statuti*, so that all Statutes that may be the Foundation of this Indictment you may go upon.

Jury. We desire to know whether any of these Witnesses stand indicted or no.

L. C. J. Look ye, Gentlemen, don't talk of this, but consider with your selves, an Examination or Proofs concerning the Credibility of the Witnesses is not properly before you at this time; for I must tell you, and inform you as to that, you are not to Examine properly here concerning the Credibility of the Witnesses, that is not to be proved or controverted here before you, that is Matter, upon a Trial by the Petty Jury, for there the King will be heard for to defend the Credit of his Witnesses, if there be any thing that can be objected against them; it is proper for the Prisoner to do that, you are only to see whether the Statute be satisfied, in having Matter that is Treasonable, and having it witnessed by two Men, by two Witnesses, who are intended *prima facie* Credible, unless you of your own knowledge know the contrary; for otherwise, you must consider what a disadvantage this would be in all such Cases, if the Credibility of the Witnesses should be examined before the Grand Jury, where the King is not present, nor in a possibility of defending the Credit of his Witnesses; the Prisoner or the Party Indicted is not here; that is a proper Objection when he comes upon his Trial; for all men are intended Credible, till there are Objections against them, and till their Credits come to be examined on one side and the other.

Mr. *Papillon.* My Lord, if your Lordship thinks good, I will beg this, I desire your Lordships pardon, whether your Lordship doth not think that we are within the compass of our own Understanding and Consciences to give our Judgment?

L. C. J. Your own Understandings and Consciences, yes; but look ye, Gentlemen ——

Mr. *Papillon.* If we are not left to consider the Credibility of the Witnesses, we cannot satisfie our Consciences.

L. C. J. Look ye, Gentlemen, you are to go according to the Evidence of the Witnesses; you are to consider of the Case according to the things alledged and proved, unless you know any thing your selves: But if any of you know any thing of your own knowledge, that you ought to take into Consideration, no doubt of it.

Jury. Very well, my Lord.

L. C. J. The Grand Jury are to hear nothing, but the Evidence against the Prisoner; therefore for you to enter into proofs, or expect any here, concerning the Credit of the Witnesses, it is impossible for you to do Justice at that rate.

The Jury withdrew, and the Court adjourn'd till 3 a Clock.

L. C. J. Let the Witneſſes be brought in one by one.

Foreman. We will firſt ask a Queſtion of Mr. *Gwynn.*

Mr. Gwynn.

Foreman. Who put up the Papers?

Mr. Gwynn. I put up the Papers my ſelf.

Foreman. Who went in with you?

Mr. Gwynn. None but my Lords Servants, I think, were there: But I put up the Papers my ſelf.

Foreman. Pray, Sir, whoſe hand writing is that Paper of?

Mr. Gwynn. Indeed, Sir, I can't tell.

Foreman. How did it come into my Lord *Shaftbury*'s Cloſet?

Mr. Gwynn. My Lord, this is a ſtrange Queſtion. Indeed, Sir, I can't tell; all the Papers that I found in that Cloſet I put into that Bag.

L. C. J. To ſatisfie the Jury, was the Paper in the Cloſet before you came there?

Mr. Gwynn. My Lord, it was certainly there, for there I found it; I don't know the particular Paper, but all the Papers in that Bag were there.

L. C. J. From whom had you the Key?

Mr. Gwynn. From my Lord *Shaftsbury.*

Foreman. Don't you know, Sir, there was a Diſcourſe in the Parliament of an Aſſociation?

Mr. Gwynn. Sir, I was not of the laſt Parliament. Sir, I know nothing of it.

Foreman. You have not heard then, that there was ſuch a thing in Parliament concerning an Aſſociation?

Mr. Gwynn. I have heard of an Aſſociation talked of.

Foreman. Mr. Secretary, I would ask you ſome queſtions, if you did not know of a Debate in Parliament of an Aſſociation?

Mr. Secretary. I was not preſent at the Debate; but there was a talk in Town of an Aſſociation.

Foreman. Did not you hear of it in Parliament?

Mr. Secretary. Indeed there was an Anſwer to a Meſſage from the Houſe of Commons that had ſome thing in it that did ſtrongly imply an Aſſociation; but this particular Aſſociation I do not remember to have heard propos'd.

Foreman. Don't you remember in the Houſe of Commons, Sir, it was read upon occaſion of that Bill?

Mr. Secretary. I heard ſuch a thing ſpoke of; but at the Reading of it I was not preſent, to the beſt of my remembrance.

Foreman. What Date, Sir, was the Warrant for my Lord *Shaftbury*'s Commitment?

Mr. Secretary. I refer my ſelf to the Warrant, for that I do'nt know the Date.

L. C. J. Mr. Secretary, you muſt ſpeak about the time that it was.

Mr. Secretary. Sir, I was the man that had the honour to Sign that Warrant by which the Serjeant at Arms did Apprehend my Lord *Shaftsbury*, but what day of the Month I do not remember; and therefore I refer my ſelf, if you pleaſe, to the Warrant, and to the Serjeant at Arms.

Foreman. What Month was it?

Mr. Secretary. Sir?

Foreman. About what Month?

Mr. Secretary. July.

Foreman. The beginning of *July*?

Mr.

Mr. Secretary. Sir, I do not remember the day preciſely, for I did not foreſee that Queſtion would be asked me; but I refer my ſelf to the Warrant, and that is beyond all doubt.

Foreman. I ſuppoſe all theſe Witneſſes that are examin'd, were examin'd before the Committee.

Mr. Secretary. Sir, They were examin'd, and I was preſent at the Examination.

Foreman. All of them?

Mr. Secretary. I don't know whether all of them; but I am ſure I was at the Examination of ſeveral of them.

Foreman. How many, Sir?

Mr. Secretary. I can't tell truly how many.

Foreman. Call Mr. *Booth.*

Officer. He is not here, the Tipſtaff has him ſome where.

Foreman. Is that Witneſs a Priſoner?

L. C. J. Booth is a Priſoner.

Foreman. Then call Mr. *Turbervile.*

Mr. *Papilion.* Is Mr. *Turbervile* there?

Officer. Here is Mr. *Booth* come now.

Mr. *Godfrey.* Put *Turbervile* out again.

Foreman. Mr. *Booth*, you told me of a Diſcourſe that paſt between the Lord *Shaftsbury* and your ſelf, we deſire to know where it was, and when.

Mr. *Booth.* It was in *Thanet*-houſe, Sir, where he lived, about a week or Ten days before the Parliament ſat at *Oxford.*

Foreman. The preciſe time.

Mr. *Booth.* I cannot be more preciſe.

Foreman. Who introduced you?

Mr. *Booth.* I think one Mr. *Wilſon* led me into the Chamber.

Foreman. Who was preſent when the Diſcourſe was?

Mr. *Booth.* None but He and I, Sir.

L. C. J. If we have theſe Noyſes, we will have every one of you put out of Court.

Mr. Att. General. Richardſon, Richardſon, Pray turn them all out; they are brought in on purpoſe.

Mr. *Booth.* It was not the firſt, ſecond, nor third time that I had waited upon the Lord of *Shaftsbury.*

Foreman. In what Room was it that my Lord ſpake thoſe words to you?

Mr. *Booth.* It was in the Room he uſually ſets in, on the left hand as we come out of the long Gallery, I think we paſſ'd through a Room before it, Wainſcotted about, as I remember, and hung. I have been in that Room with him four or five times, I am ſure.

Foreman. After this Diſcourſe with you, how long was it before you ſpake of it to any body elſe?

Mr. *Booth.* Truly I think I did not publiſh this Diſcourſe that my Lord and I had, from the time it was, till within this Seven or Eight weeks.

Foreman. You were never examined before then as a Witneſs?

Mr. *Booth.* No, Sir, I never was, nor no body will pretend it, I ſuppoſe.

Foreman. To whom, Sir, did you give your firſt Information?

Mr. *Booth.* Sir, I ſent my firſt Information in writing to the Lords in the Council.

Foreman. By whoſe hand?

Mr. *Booth.* By the hand of *Walter Banes.*

Foreman.

Foreman. You had ſeveral Diſcourſes with him; Had you eaſie Admiſſion, or was it with difficulty you came into his Company?

Mr. *Booth.* I was admitted by the influence of Captain *Wilkinſon* at firſt, and ever after went with him, and had eaſie admittance and familiarity with him.

Foreman. Was he with you every time?

Mr. *Booth.* No, not every time; he was not this time with me.

Foreman. Did he talk to this purpoſe every time?

Mr. *Booth.* Something to this purpoſe he did talk every time, but not ſo fully; for I was firſt acquainted with this Buſineſs of *Oxford* by Captain *Wilkinſon*, and I had a great deſire to underſtand it from my Lords own mouth, becauſe I would be ſatisfied in my Lord's Intereſt, as well as his Conduct.

Foreman. Pray, Sir, what Education have you had?

Mr. *Booth.* I have had the Education of a Gentleman, an Academical Education.

Foreman. Were you ever in Orders?

Mr. *Booth.* Yes.

Foreman. Do you own your ſelf to be in Orders ſtill?

Mr. *Booth.* How do you mean to be in Orders? I tell you I was in Orders; but I am not now Benificed.

Foreman. Do you officiate as a Miniſter?

Mr. *Booth.* No.

Foreman. Were you ever an Attorney's Clerk?

Mr. *Booth.* Never.

Foreman. Or a Juſtice's Clerk?

Mr. *Booth.* Never; nor to no Mortal.

Foreman. Were you ever Indicted for any Felony?

L. C. J. That is a Queſtion not to be asked by any Jury-man of any Witneſs whatſoever: No man is bound to diſcover any thing of that Nature that is Criminal, concerning himſelf.

Foreman. If it be pardoned, my Lord, he may.

L. C. J. Pardoned, or not pardoned, he is not bound to accuſe himſelf, nor to fix a Scandal on himſelf.

Mr. *Booth.* No, my Lord, *Nemo tenetur ſeipſum prodere.*

L. C. J. Sir, we muſt not ſuffer ſuch Queſtions; I will tell you the reaſon: It is proper for a Priſoner that ſtands upon his Juſtification to object it, but then the Priſoner muſt prove it: It lies upon him to prove it.

Mr. *Papilion.* Mr. *Booth*, you told us of Fifty men that were Liſted under Captain *Wilkinſon*, Do you know any more of them?

Mr. *Booth.* I never directly converſed with any other.

Mr. *Papilion.* Did you know any more of them?

Mr. *Booth.* No, not directly I did not, but only by Captain *Wilkinſon*'s Information.

Mr. *Papilion.* How many Stories was that Room where you talked with my Lord?

Mr. *Booth.* One pair of Stairs, as I remember.

Mr. *Godfrey.* Was it the right hand as you came in?

Mr. *Booth.* I think ſo.

Mr. *Godfrey.* Was it the right hand or the left?

Mr. *Booth.* I went into the long Gallery firſt, and ſtayed there about a quarter, or half an hour; and I remember very well I looked upon ſome Maps that were there, to divert my ſelf a while; and when I was called in, went out of the Gallery on the left hand, and went through another Room before I came into my Lord's Room.

Foreman.

Foreman. Did you never hear my Lord ſpeak Treaſon in any Houſe but his own?

Mr. *Booth.* I never had occaſion to hear this Diſcourſe from my Lord, but in his own Houſe; I never waited upon him in any other Houſe.

Foreman. Was you never deſired to be a Witneſs againſt my Lord *Shaftsbury*?

Mr. *Booth.* Not till I intimated ſome thing of it.

Foreman. Who was that too?

Mr. *Booth.* That was to Mr. *Banes*, I told you before ſo.

Foreman. And what then?

Mr. *Booth.* When he told me of his Buſineſs with the *Yorkſhire* Attorney *Brownrigg*, I did ſay again, I did not know what my Lord had done as to any thing of *Iriſh-men*, but I was ſure there was ſomething as to *Engliſh-men*, as to that purpoſe.

Foreman. Did he propoſe any Reward, or any thing of that Nature?

Mr. *Booth*, Not a Farthing; for I think he had no Commiſſion to do it.

Foreman. Are you acquainted with one *Callaghan* and *Downing*, two *Iriſh-men*?

Mr. *Booth.* No.

Mr. *Godfrey.* Were you never in their Company?

Mr. *Booth.* Not that I know of.

Mr. *Godfrey.* Did you ever hear their Names?

Mr. *Booth.* I don't know that I have.

Foreman. Were you in their Company lately?

Mr. *Booth.* Not, as I know of. I do not remember either their Names or their Perſons, nor do I know them from other men.

Foreman. Do you know one Mr. *Shelden*?

Mr. *Booth.* No.

Foreman. Do you know one Mr. *Marriott*?

Mr. *Booth.* No, Sir: I have heard of one *Marriott* that did belong to my Lord Duke of *Norfolk*.

Foreman. When were you in his Company?

Mr. *Booth.* Never that I know of.

Foreman. Has no body diſcourſed you from him?

Mr. *Booth.* No, no body.

Foreman. Did you never hear of any Witneſſes he ſent to his Tenants?

Mr. *Booth.* I have heard from *Banes* about *Brownrigg*, about *Iriſh* Witneſſes.

Mr. *Godfrey.* Did you never hear of any *Iriſh* Witneſſes ſent down by Mr. *Marriott* to the *Iſle of Ely*?

L. C. J. We gave you all the liberty in the World, hoping you would ask pertinent Queſtions, but theſe are Triſles. I did not expect that any wiſe men would have asked theſe Queſtions. Mr. *Godfrey*, was it to the purpoſe whether Mr. *Marriott* ſent any *Iriſh* Witneſſes to his Tenant, or no? What is that to this buſineſs?

Foreman. My Lord, I have it under the hand of the Clerk of the Council.

Mr. *Booth.* Pray, Sir, Did any inform you that I had any Correſpondence with this man?

L. C. J. Nay, Sir, you muſt ask no Queſtions.

Mr. *Godfrey.* Mr. *Booth*, do you go under no other name but *Booth*?

Mr. *Booth.* No, nor never did in my life.

Mr. *Booth.* My Lord, I cannot go in ſafety here for the Tumult.

L. C. J. Let the Officers ſecure him: Mr. Sheriff, look to him, that the man be ſecure and ſafe; I will require him at your hands elſe.

Mr. Sheriff *Pilkington.* What ſhould I do?

L. C. J. Send your Officers to protect him, as becomes you, that he may be ſecured from the Rabble here.

Mr. *Turbervile.*

Foreman. Mr. *Turbervile*, when you had this Diſcourſe with my Lord *Shaftsbury*, who was preſent with you?

Mr. *Turbervile.* One of his Servants; truly I cannot tell his Name.

Foreman. No body elſe?

Mr. *Turbervile.* I know the Name of none of his Servants, but Mr. *Sheppard*, I cannot remember any body elſe.

Foreman. Did he carry you up to my Lord?

Mr. *Turbervile.* It was he, I think, told me I might go in: I was in the Dining Room.

Foreman. What time was this?

Mr. *Turbervile.* In the Morning.

Foreman. What time was it when you had this Diſcourſe with my Lord *Shaftsbury*?

Mr. *Turbervile.* It was in *February.*

Foreman. What time in *February*?

Mr. *Turbervile.* About the beginning; I cannot tell exactly to a day.

Foreman. How long was this before you communicated this to any body?

Mr. *Turbervile.* It was about the Fourth of *July.*

Foreman. Then you concealed it from *February* to *July:* Who did you Communicate it to firſt of all?

Mr. *Turbervile.* The firſt Depoſition I gave was to Mr. Secretary.

Foreman. Which Secretary?

Mr. *Turbervile.* Secretary *Jenkins.*

Foreman. Pray what Room was it you had this Diſcourſe in?

Mr. *Turbervile.* Sir, It was the Room at the upper end of the Dining Room; I think they call it the Dining Room; at the upper end of the Room, and turns on the left hand where he lay.

Foreman. Did you meet with no body about the beginning of *July*, after my Lord's Commitment, and tell them when you were challenged, and told you were to be a Witneſs againſt him, As you were alive you knew no ſuch thing?

Mr. Attor. General. My Lord, this is not to be allowed: This is private Inſtructions which the Jury are not to take.

Foreman. No, Sir, it is not private Inſtructions. Did you not ſpeak ſuch words to *William Herbert*?

L. C. J. Have you had any Information concerning this to Mr. *Herbert*?

Foreman. My Lord, I have a long time ago. My Lord, ſuch a perſon did tell me ſo and ſo, and ſet down the day; and he then ſaid he was very angry with him for it.

L. C. J. Look ye, Gentlemen, what Diſcourſe you take up at random in every Coffee-houſe? Is that fit to be brought in when Treaſon is in queſtion againſt the King's Life? Are theſe Coffee-houſe Diſcourſes, do you think, ground enough for you to cavel at Perſons, becauſe you have heard this Diſcourſe in a Coffee-houſe?

Foreman.

Foreman. My Lord, I never was in a Coffee-houſe in my life with Mr. *Herbert*; but he declared this to me ſome Months ago.

L. C. J. And you think this is ground enough for you againſt him?

Mr. *Papillon.* My Lord, we only ask this Queſtion, whether he hath not contradicted this, or ſaid the contrary to any body elſe?

Mr. *Turbervile.* I do not remember that ever I ſpake one word to Mr. *Herbert* in my life; and I can give you one reaſon. For I was diſcarded by all the People of my Lord's Intereſt at that time; and if I had given under my hand that I had known nothing againſt him, I believe I might have been in their favour as much as before.

Mr. *Papillon.* Were not you one that Petitioned to the Common Council in *London*?

Mr. *Turbervile.* I did, Sir.

Mr. *Papillon.* And did not you declare then that you were tempted to witneſs againſt your Conſcience?

Mr. *Turbervile.* I believe I never read the Petition: It was drawn by the Order of Mr. *Colledge*, by a Man that lives about *Guildhall*; by a Scrivener about *Guildhall*; and I ſigned that Petition, but never read it, nor knew what was in it.

L. C. J. Mr. *Richardſon*, any you Officers, watch by thoſe men that make a noiſe, and bring me in one to make an Example.

Mr. *Turbervile.* My Lord, I go in danger of my life, for the People threaten to ſtone me to death, and I cannot go ſafe to my Lodging.

Mr. *Papillon.* What was your deſign in ſigning that Petition? what did you look for?

Mr. *Turbervile.* The deſign was that the City ſhould take care of us.

Mr. *Papillon.* Were you in a poor Condition?

Mr. *Turbervile.* Truly I was not very poor, though I was not over full of Money.

Mr. *Papillon.* It is a ſtrange thing that you ſhould Petition for Relief, if you were not in want.

Mr. *Turbervile.* We were told by ſome Members of the Houſe of Commons, that there was a Vote in the Houſe of Commons ready to paſs, that the City ſhould advance Money for the ſupport of the Witneſſes, and that we would Petition that they would anſwer the Deſign of the Parliament.

Mr. *Papillon.* What Members were they?

Mr. *Turbervile.* It was a Member of the Houſe of Commons that told me ſo, I will aſſure you two of them.

Mr. *Papillon.* Did never any body move you, or deſire you to be a Witneſs in this caſe againſt my Lord *Shaftsbury*?

Mr. *Turbervile.* No body in my life. When I came to ſpeak the truth of what I knew, I did it voluntarily.

Mr. *Papillon.* You did it voluntarily?

Mr. *Turbervile.* I did, I will aſſure you.

Mr. *Papillon.* Do you know any thing more than what you have ſaid here?

Mr. *Turbervile.* No, not one tittle.

Mr. *Papillon.* Mr. *Turbervile*, I deſire to be ſatisfied in one thing, whether my Lord *Shaftsbury* was Committed before or after your Information?

Mr.

Mr. *Turbervile*. Truly, Sir, I cannot tell poſitively, as to that point; but I believe it was before; I cannot tell.

Mr. *Papillon*. Did you hear my Lord ſpeak theſe words in any other Room or Place?

Mr. *Turbervile*. No, indeed, I did not.

Mr. *Papillon*. It was about the Fourth of *July*, you ſay, your Depoſitions were taken?

Mr. *Turbervile*. About that time, I ſuppoſe the Fourth of *July*—— I hope your Lordſhip will take care that we be not knock't on the head.

L. C. J. That we give in Charge to Mr. Sheriff; and ſee you do take care of the King's Witneſſes at your peril. It is a reflection, not only upon the Government of the City, to ſuffer theſe Diſorders, but upon the whole Kingdom: Therefore, Mr. Sheriff, look the Witneſſes come by no hurt.

Mr. *John Smith*.

Mr. *Papillon*. Mr. *Smith*, the Jury ask you a Queſtion, whether or no you did not uſe to go by the name of *Barry*?

Mr. *Smith*. Sir, what names I have gone by is not pertinent to this purpoſe; I tell you I have gone by ſeveral Names, as all Popiſh Prieſts do.

Mr. *Papillon*. Did you never go by the Name of *Barry*?

Mr. *Smith*. It may be I might; I have gone by ſeveral Names, as all Popiſh Prieſts do.

L. C. J. Did you ever go by the Name of *Barry*?

Mr. *Smith*. I did, my Lord; it is uſual for Popiſh Prieſts ſo to do.

Mr. *Papillon*. What Religion are you of, Mr. *Smith*?

Mr. *Smith*. I am a Proteſtant, Sir.

Mr. *Papillon*. How long have you been a Proteſtant?

Mr. *Smith*. Many years.

Mr. *Papillon*. When were you firſt Converted?

Mr. *Smith*. Firſt Converted?

Mr. *Papillon*. Ay, to the Proteſtant Religion: You ſay you have been one many years?

Mr. *Smith*. I have been a Proteſtant, and was perverted to the Popiſh Religion, and afterwards became a Proteſtant again.

L. C. J. Bring in one of thoſe men that make the noiſe. Cannot you bring in one of them?

Mr. *Papillon*. When did you receive the Sacrament?

Mr. *Smith*. I believe not above Three Months ago, as the Rector of *Bow-Church* will inform you: I have it under the Church-wardens hands in other places in *London*.

Mr. *Papillon*. Have you been deſired to be a Witneſs, or did you do it voluntarily?

Mr. *Smith*. Never deſired, I declare it; I did it voluntarily of my ſelf.

Mr. *Papillon*. When did you give in your Evidence firſt?

Mr. *Smith*. Truly I cannot exactly tell when I gave it in; I did not keep an account of it.

Mr. *Papillon*. What Month?

Mr. *Smith*. I cannot tell.

Mr. *Papillon*. Was it before my Lord was Committed, or after?

Mr. *Smith*. I believe it might be a little after. Whether it was before or after, I cannot exactly tell.

Mr. *Papillon*. To whom did you give your Information?

Mr.

Mr. *Smith*, My Lord, they commanded the people to ſtone us to death.

L. C. J. Who did?

Mr. *Smith*, Several perſons, and when we were at the Tavern, Dr. *Oates*'s man came out and gave the Rabble a Bottle of Wine, and bid them knock us down.

L. C. J. Do you know what the mans name is?

Dr. *Oates* I know nothing of it my Lord.

L. C. J. What is your mans name?

Dr. *Oates*, I keep half a dozen men, my Lord.

L. C. J. I hope you keep no men to affront the King's Witneſſes.

Dr. *Oates*, No my Lord, it is a miſtake, I know nothing of it, we went thither to refreſh our ſelves.

M. *Papillon*, Mr. *Smith*, who did you give your Information to?

Mr. *Smith*, What Information? Mr. *Papillon*, The firſt Information.

Mr. *Smith*, My Lord, am I to anſwer to theſe queſtions?

L. C. J. Ay Anſwer them, tell them.

Mr. *Smith*, My Lord, the Information I gave in to Secretary *Jenkins*, but I gave notice long before of what I intended to do to other perſons.

Mr. *Papillon*, When did you hear theſe words, ſpeak to the time exactly?

Mr. *Smith*, Which words do you ask?

Mr. *Papillon*, Thoſe you mentioned even now.

Mr. *Smith*, Sir if you pleaſe, I know you take all in ſhort hand, if you ask me what words, I will tell you, for if I do not expreſs my ſelf in the ſame words as before, you will take hold of me.

L. J. C. I will tell you this, this may be an ill queſtion, for he told you, he had diſcourſed my Lord *Shaftsbury* at a great many times, and that at ſometimes he ſaid theſe words, at other times other words, and for you to catch him upon a queſtion, it doth not ſhew a fair inclination.

Mr. *Papillon*, My Lord, under your Lordſhips favour, we only deſire to diſcover the truth, we are not for catches.

L. C. J. Ask him then which of the words you would have him declare the time of, and he will tell you.

Mr. *Papillon*, Let him ſpeak his own words, it was about the time when *Hetherington* went thither.

Mr. *Smith*, Truly I will anſwer that as punctually as I can, the month or day I cannot well tell, but the perſon that came for me was major *Manly*; and he came to *Bethels* Club, what time that was, I cannot ſay, but if you pleaſe to inform your ſelves of thoſe Gentlemen that I name, I believe they will tell you Mr. *Bethel* was there preſent, and knew very well I went to my Lord *Shaftsbury* that night, and returned to the Club again.

Mr. *Godfrey*, Was it in the Evening or the morning?

Mr *Smith*, Mr. *Godfrey*, Clubs are uſually at night I ſuppoſe, you know that was.

Mr. *Papillon*, Where did you ſee my Lord *Shaftsbury*?

Mr. *Smith*, It was in his Dining Room.

Mr. *Papillon*, Did you hear theſe words in any other place, or at any other time, or any Treaſonable words againſt the King?

L. C. J. Look you Gentlemen, he told you of ſeveral other words at ſeveral other times.

Mr. *Papillon*, But he ſaid all at his houſe, my Lord.

L. C. J. Ay, but at ſeveral times.

Mr. *Smith*, I know Mr. *Attorny*, what the Gentlemen would be at very well.

L. C. J. Anſwer them whether you did hear him ſpeak any words that you conceive Treaſonable at any other time?

Mr. *Smith*, I did not indeed.

Mr. *Papillon*, In another place? Mr. *Smith*, I do ſay I did not.

Mr. *Papillon*, Did you petition to the Common Councel?

Mr. *Smith*, No Sir I never did.

Mr. *Papillon*, Are you an Engliſh-man or an Iriſh man?

Mr. *Smith*, Thats no matter, no more than if I were a French-man or a Dutch-man.

L. C. J. Give them an account whether you are an Engliſhman or an Iriſh-man.

Mr. *Smith*, My Lord, I beg your Lordſhips pardon for that, if I were an Iriſhman, whether thereupon my Evidence would be prejudiced.

L. C. J. Look you Mr. *Smith*, I do hope the Gentlemen of the Jury have more diſcretion among them all, than to think that an Iriſh-man is not a good witneſs, I hope they are not ſuch perſons.

Mr. *Smith*, My Lord, if you pleaſe whilſt I was in the City amongſt them, I never petitioned to the City, I never had a farthing from them, nor ever ſpake to any for it, I never had any occaſion for it, but if I had, it is probable I have enough in *England*, and other places, without being beholden to your Common Council.

L. C. J. Will you ask him any more queſtions? *Jury*, No, no.

Mr. *Papillon*, Is Mr. *Smith* gone? I would ask him one word, we would fain know what allowance you have, or what you receive, if you have any allowance, from any body? Mr. *Smith*, From whom?

Mr. *Papillon*, Nay, I know not from whom: I ask whether you have any from any body?

L. C. J. Look ye Gentlemen, is that a queſtion that is pertinent? I wonder you will go to ſuch queſtions: we allowed you to ask queſtions your ſelves, becauſe we look upon you as men of reaſon.

Mr. *Papillon*, My Lord, I do not know but it may be a proper queſtion to ask him if he have any allowance from any man upon this account.

L. C. J. Upon what account?

Mr. *Papillon*, Upon this account, if he ſays he has none 'tis an anſwer.

L. C. J. Do you intend your queſtion, whether he is bribed to give Evidence, if you mean ſo, ſpeak plain.

Mr. *Papillon*, We ask if he have any allowance?

Mr. *Smith*, You don't ask me how the 6 or 700 *l.* was made up.

L. C. J. You that are upon your Oaths ſhould have a care what you do.

Bryan Haynes.

Mr. *Papillon*, Mr. *Haynes*, when did you give in your Information upon this matter?

Mr. *Haynes*, Againſt the Earl of *Shaftsbury*, Sir? Mr. *Papillon*, Ay.

Mr. *Haynes*, The day that I was taken by the Meſſenger.

Mr. *Papillon*, That was before my Lord was committed, was it not?

Mr. *Haynes*, Yes Sir, it was before my Lord was committed.

Mr. *Papillon*, Did you ever make any other Information to a Juſtice of the Peace? Mr. *Haynes*, Not of my Lord of *Shaftsbury*.

Mr. *Papillon*, Nor touching this matter?

Mr. *Haynes*, No not any Information upon Oath, I may have diſcourſed with a Juſtice of the peace.

Mr. *Papillon*, Did not you give in an Information of a Deſign againſt the Earl of *Shaftsbury*?

Mr. *Haynes*, To none but to Secretary *Jenkins*.

Mr. *Papillon*. You underſtand the queſtion, whether you did give no Information of a Deſign againſt my L. *Shaftsbury* to ſome Juſtice of the peace?

Mr. *Haynes*, No no, to none but Mr. Secretary *Jenkins*.

L. C. J. You do not obſerve his queſtion, did you ever give to any Juſtice any Information of a Deſign againſt my Lord *Shaftsbury*.

Mr. *Haynes*,

Mr. *Haynes*, Yes my Lord, I did to Sir *George Treby*, I made Affidavit before him.

Mr. *Papil.* When was that? Mr. *Haynes*, I think it was in *March* laſt.

Mr. *Papilion*, What was that deſign againſt my Lord *Shaftsbury*?

Mr. *Haynes*, The deſign was what Mr. *Fitz-Gerrald* told me, he told me he gave under his hand to the King, that the Earl of *Shaftsbury* did reſolve to ſet the Crown upon his own head, or otherwiſe to turn the Kingdom into a Common-wealth.

Mr. *Papilion*, *Fitz-Gerrald* told you this, and ſo you made Affidavit of it?

Mr. *Haynes*, Yes, before Sir *George Treby*.

Mr. *Papilion*, What time?

Mr. *Haynes*, It was before the Parliament met at *Oxford*.

Mr. *Papilion*, So you ſay the words were, when were the words ſpoken that you mentioned?

Mr. *Haynes*, The words againſt my Lord?

Mr. *Papilion*, Ay.

Mr. *Haynes*, He ſpake them to me a little before I made Affidavit, I cannot tell poſitively the time.

Mr. *Papilion*, That was before his Commitment.

Mr. *Haynes*, Yes, yes, my Lord was committed in *June* laſt, this Affidavit was made in *March* laſt before the Recorder of *London*.

L. C. J. North, When you ask him about the Information of the deſign againſt my Lord *Shaftsbury*, he ſays that was in *March* laſt, and when you ask him about the evidence he gives now, that was the ſame day he was apprehended by the Meſſenger.

Mr. *Papilion*, About *June* you ſay it was, that you ſay you gave in the Information againſt my Lord *Shaftsbury*.

Mr. *Haynes*, The Information I made againſt my Lord *Shaftsbury* was in *June* laſt, the 28*th*. as I take it of *June* laſt.

Mr. *Papilion*, Where was it you had this diſcourſe?

Mr. *Haynes*, I had ſeveral Conferences with my Lord.

Mr. *Papilion*, Did he every time ſay the ſame?

Mr. *Haynes*, The laſt time I ſpake with him was in *Iron-monger*-Lane, for Mr. *Whitaker* told me he would ſpeak with me, and he would fain have me explain my ſelf, what I did mean by the tall man I mentioned in the Narrative, and I went to the houſe, and they told me he was there, and I ſent up a Note, and he deſired me to come up; but I ſent word I did not care to come up, becauſe I would not be known, and ſo he ſent me word to meet him after Dinner, and when I came, my name is *Haynes* my Lord, ſaid I, and I led his Lordſhip by the hand and went in there, I had I believe a whole hours diſcourſe with him, and pray my Lord ſaid I, among other queſtions, what Religion is the King of? truly ſays he, Mr. *Haynes* he hath no more Religion than an horſe; for ſaith he, they ſay *Sir*, he was inclined to Popery, when he came firſt to *England* ſays he, he had a tincture of Popery, and was much inclined that way, but ſince he was degenerated from all the Principles of Chriſtianity, for he is juſt like a perfect Beaſt.

Mr. *Papilion*, This you ſay was in *Iron-monger*-Lane.

Mr. *Haynes*, Ay Sir, at a Paſtery Cooks Shop.

Mr. *Papilion*, What time was it?

Mr. *Haynes*, After Dinner in the after-noon.

Mr. *Papilion*, In *June*, or when?

Mr. *Haynes*, I cannot tell what time poſitively, it was about the time of the Trial of *Fitz-Harris*.

Mr. *Papilion*, Was it the ſame time he ſpake about the D. of *Buckingham*?

Mr. *Haynes*, No, no. Mr. *Papilion*, When was that?

Mr. *Haynes*,

Mr. *Haynes*, That was when I was with him at his own houſe, and deſired him not to expoſe me. Mr. *Papillon*, What time?

Mr. *Haynes*, I cannot tell Sir, for I never thought I ſhould be called to an account for it, and I cannot keep an Almanack in my head, and I deſired them not to expoſe me to the King's fury, for I heard the King was diſpleaſed with me: no ſays he you are miſtaken, this is the beſt opportunity we can have, and if he will not give you a Pardon, we will raiſe the whole Kingdom againſt him in Arms, and then he makes himſelf the Maſter and Author of the Plot, and conſequently he muſt expect to be ruined, unleſs he grant you a pardon. Mr. *Papillon*, Did you ever hear any other words than what you have now teſtified?

Mr. *Haynes*, Yes Sir, for I diſcourſed with him in *Iron-monger*-Lane a great while, and told him that our only and beſt way to have our ends of the King, was to raiſe a Rebellion in *Ireland*, and that I had relations and friends, and could get diſcontented Perſons enough, and his Lordſhip would do the work here.

Mr. *Papillon*, What, did you propound a Rebellion in *Ireland*?

Mr. *Haynes*, I offered to go beyond Sea, and that now was the beſt time to raiſe a Rebellion in *Ireland*, and he ſaid that was not the beſt way, for they had other means to take, and ſo the diſcourſe was waved.

Mr. *Papillon*, And is that all?

Mr. *Haynes*, That is all I remember now.

Mr. *Papillon*, Do you know of any other place or time?

Mr. *Haynes*, I was with him at his houſe.

Mr. *Papil.* Were you ever a witneſs for my Lady *Windham* or againſt her?

Mr. *Haynes*, No Sir, but ſhe arreſted me, becauſe I ſaid I lay with her.

John Macnamara.

Mr. *Papillon*, Mr. *Macnamara*, when was it you had this diſcourſe with my L. *Shaftsbury*, what is the time as near as you remember?

Mr. *Mac.* In *March* and *April* laſt Sir.

Mr. *Papillon*, Twice then do you ſpeak of? Mr. *Mac.* Yes Sir.

Mr. *Papillon*, Which is that that was in *April*?

Mr. *Mac.* That was the laſt, the laſt diſcourſe was in *April*.

Mr. *Papillon*, To what purpoſe was that?

Mr. *Mac.* My Lord ſaid that the King deſerved to be depoſed as much as King *Richard* the ſecond did.

Mr. *Papillon*, In *April* you ſay. Mr. *Mac.* In *April*.

Mr. *Papillon*, When did you give Information of this?

Mr. *Mac.* I cannot exactly tell Sir.

Mr. *Papillon*, Repeat what you ſaid.

Mr. *Mac.* That the King deſerved to be depoſed as much as King *Richard* the Second, and that he took the Dutcheſs of *Mazarines* advice in every particular, which was the worſt of Woman kind.

Mr. *Papillon*, What time in *April* was this?

Mr. *Mac.* It was in the beginning of *April*.

Mr. *Papillon*, Where? Mr. *Mac.* In his own houſe.

Mr. *Papillon*, Who was preſent? Mr. *Mac.* There was Mr. *Ivey* by.

Mr. *Papillon*, When did you make information of this?

Mr. *Mac.* I cannot tell, it was a good while ago.

Mr. *Papillon*, Was it before his Commitment?

Mr. *Mac.* Yes Sir it was.

Mr. *Papillon*, To whom did you give information?

Mr. *Mac.* To the Secretary of State, Sir.

Mr. *Papillon*, Which of them? Mr. *Mac.* Mr. Secretary *Jenkins*, Sir.

Mr. *Papillon*, Did not you petition the Common-Council Sir, for relief?

Mr. *Mac.* Yes Sir, I ſigned a Petition that was drawn up, but I did not ſee it till it was brought to me to ſign.

Mr. *Papil.*

Mr. *Papilion*, Did you read it? Mr. *Mac.* No I never read it neither.

Mr. *Papilion*, Nor don't know what is in it?

Mr. *Mac.* No nor don't know the contents of it.

Mr. *Papilion.* My Lord, in that Petition they ſay, they were tempted to Swear againſt their Conſciences, and that ſome of the Witneſſes had made ſhipwrack of their Conſciences; we ask them now, and they ſay, they do not know what was in the Petition: if we ſhould ask them who tempted them, and who thoſe Witneſſes were, that made ſhipwrack of their Conſciences, it would ſignifie nothing; for ſince they do not know what was in the Petition, it is in vain to ask them any more.

Mr. *Mac.* For my part, my Lord, I never ſaw it till it was brought to me to be ſigned, and do not know the contents of it; but I heard Mr. *Colledge* that was executed at *Oxford*, was concerned in promoting the Petition, by my L. *Shaftsbury*'s advice.

Dennis Macnamara.

Mr. *Papilion*, *Dennis Macnamara*, tell us how you were introduced to my L. *Shaftsbury*, when you had this Diſcourſe?

D. Mac. By my Brother, Sir.

Mr. *Papil.* What, he that was here laſt?

D. Mac. Yes, Sir. Mr. *Papil.* He introduced you?

D. Mac. Yes, Sir. Mr. *Papil.* When was it?

D. Mac. It was in *March* laſt, the latter end of *March*, or beginning of *April*.

Mr. *Papilion*, Cannot you tell which of the months?

D. Mac. No, I cannot be poſitive in it.

Mr. *Papil.* Who was by? *D. Mac.* There was Mr. *Ivey*.

Mr. *Papilion*, No body but Mr. *Ivey*?

D. Mac. No body but Mr. *Ivey* and my Brother.

Mr. *Papilion*, Where was it?

D. Mac. It was in his own Dining Room.

Mr. *Papilion*, Were none of his Servants in the Room?

D. Mac. Not that I know of.

Mr. *Papilion*, Are you ſure none of his ſervants were there?

D. Mac. Not that I know of.

Mr. *Papil.* Did you hear any thing elſe, at any other time?

D. Mac. No. Mr. *Papil.* Nor in any other place?

D. Mac. No. Mr. *Papil.* When did you give in this Information?

D. Mac. I gave it in a good while ago, Sir, I cannot be poſitive.

Mr. *Papilion*, Was it before my Lord was committed?

D. Mac. Yes, a great while.

Mr. *Papilion*, To whom did you give it?

D. Mac. I gave it to the Secretary of State.

Jury, Cannot you remember how long it was before?

D. Mac. No, I cannot at the preſent.

Mr. *Papil.* Which of the Secretaries? *D. Mac.* Secretary *Jenkins*.

Mr. *Papilion*, My Lord, I only propoſe, whether we may not ask whether he have not a pardon, for it would be a ſatisfaction to us for ſome reaſon.

L. C. J. North, Look you here Gentlemen, when the Priſoner makes exceptions to the Witneſſes, then it is proper, but here are no exceptions to the VVitneſſes.

Mr. *Papil.* My Lord, we make no exceptions, but we muſt ſatisfie our own Conſciences, my Lord, that we muſt do, and that is very much, as we find the Credibility of the VVitneſſes.

L. C. J. North, Gentlemen, what do you mean that he ſhould have a pardon for? Mr. *Papil.* For Crimes.

L. C. J. *North*, You muſt not ask him to accuſe himſelf.

Mr. *Papil.* If he hath a pardon, he is in *ſtatu quo*; ſuppoſe, my Lord, ſome of them have been guilty of poyſoning, ſome of felony, ſome of robbing on the high-way, we do but ask them if they be pardoned.?

L. C. J. *North*, A man muſt not be impeached, but where he may anſwer for it.

Mr. *Papil.* My Lord, if you do not give us leave, we muſt forbear then.

L. C. J. *North*, I do not think it proper to ask.

Edward Ivey.

Mr. *Papil.* The Diſcourſe that you had with my L. *Shaftsbury*, when was it, at what time?

Mr. *Ivey*, It was a little after the ſitting of the Parliament at *Oxford.*

Mr. *Papil.* Was it at more times than one?

Mr. *Ivey*, Yes, Sir, ſeveral times. Mr. *Papil.* All the ſame Diſcourſe?

Mr. *Ivey*, No, not the ſame Diſcourſe.

Mr. *Papil.* The words that you ſpoke of, when was that?

Mr. *Ivey*, That was after the ſitting of the Parliament at *Oxford.*

Mr. *Papil.* About what time was it?

Mr. *Ivey*, It was about the latter end of *March*, or beginning of *April.*

Mr. *Papil.* When did you make Information of this?

Mr. *Ivey*, I cannot be poſitive in that neither.

Mr. *Papil.* Before my Lords Commitment or after?

Mr. *Ivey*, A while before. Mr. *Papil.* To whom did you give it?

Mr. *Ivey*, To the Secretary of State.

Foreman, Who was preſent when my L. *Shaftsbury* ſpake thoſe words?

Mr. *Ivey*, Both the *Macnamara's*, as I remember.

Foreman, Who elſe?

Mr. *Ivey*, Truly, I do not remember any elſe privy to our Diſcourſe, neither am I certain, that both the *Macnamara's* were there, one of them was there I am ſure of it.

Foreman, What was the reaſon you concealed this Information ſo long, had you no inducement to make it at that time, how came you to do it then and not before? What was the reaſon, you ſay it was the latter end of *April* and *May*, my Lord was not committed for a good while after, here was two months time?

Mr. *Ivey*, I am not certain how long a time it was before, but I made it as ſoon as I could.

Foreman, I ask you, whether you know any thing either of words, or treaſonable actions, or any thing of my Lord of *Shaftsbury*, ſpoken or acted at any other time or place?

Mr. *Ivey*, No, I have declared what I know, as to the particulars.

Bernard Dennis.

Mr. *Papil.* Mr. *Dennis*, in the morning you told me ſomething about the Diſcourſe you had with my L. of *Shaftsbury*, tell me when it was?

Mr. *Den.* It was in *April*, 4 or 5 dayes after the Parliament was Diſſolved at *Oxford.*

Mr. *Papil.* In the beginning?

Mr. *Den.* In *March*, after the Parliament was Diſſolved at *Oxford.*

Mr. *Papil.* It was in *March*, and where?

Mr. *Den.* In his own houſe, here in this town, 4 or 5 dayes after the Parliament was diſſolved at *Oxford*, immediately after he came home, I do not think he was at home 3 days before.

Mr. *Papilion*, Who was preſent with you then?

Mr. *Dennis*, There was in the Room Mr. *Sheppard* his Gentleman.

Mr. *Papilion*, Who elſe? Mr. *Dennis*, Some of his Servants, his

Pages

Pages I ſuppoſe, but whether they did hear this or no, I cannot tell.

Mr. *Papillon*, Did my Lord whiſper it, or ſpeak out?

Mr. *Dennis*, My Lord is not a man of an high voice, but of a mediocrite voice.

Mr. *Papillon*, Did he whiſper it in your ear?

Mr. *Dennis*, No, I was juſt by him.

Mr. *Papillon*, Who was in the Room beſides?

Mr. *Dennis*, No body, only his Servants.

Mr. *Papillon*, VVhen did you make this information?

Mr. *Dennis*, I made it in the month of *June*.

Mr. *Papillon*, In the month of *June*? Mr. *Dennis*, Yes Sir.

Mr. *Papillon*, Before my Lord was committed, or after?

Mr. *Dennis*, Before. Mr. *Papillon*, VVho did you make it to?

Mr. *Dennis*, I made my information to the Secretary of State.

Mr. *Papillon*, VVhich of them? Mr. *Dennis*, Secretary *Jenkins*.

Mr. *Papil.* VVhy did you conceal it ſo long?

Mr. *Den.* Becauſe I was in the City ſo long.

Mr. *Papil.* Did you ever go about to muſter your 400. men you had in *Ireland*, I ask you whether you did or no?

Mr. *Den.* Upon my word I did adviſe ſome of them to be ready.

Mr. *Papil.* And did you provide them with Arms?

Mr. *Den.* Not I Sir, I was not able to do it.

Mr. *Papil.* VVhat Religion are you of? Mr. *Den.* I am a Proteſtant.

Mr. *Papil.* How long have you been a Proteſtant?

Mr. *Den.* I have been a Proteſtant ſince *Febr.* laſt. And this I muſt confeſs, that when I was in *Spain* and *France*, my reſolution was to be a Proteſtant.

Mr. *Godfrey*, Mr. *Dennis*, pray who was in the Room when you were there? Mr. *Den.* The Earl of *Shaftsbury* Sir.

Mr. *Godfrey*, VVho elſe? Mr. *Den.* Mr. *Sheppard*.

Mr. *Godfrey*, VVho elſe? Mr. *Den.* I cannot name them.

L. C. J. Mr. *Godfrey*, when another man asks a queſtion, you ſhould conſider what is ſaid, and not ask the ſame queſtion over and over again.

Mr. *Papil.* In what place in his houſe?

Mr. *Den.* In his own Chamber, in the great Chamber, I do not know whether you call it the Hall or the Parlour.

Mr. *Papil.* VVas it above ſtairs?

Mr. *Den.* Yes, it was above ſtairs, my Lord does not uſe to ſpeak with any below ſtairs.

Mr. *Papil.* Is this all that you know, have you heard my Lord ſay any treaſonable words in any other place, or at any other time?

Mr. *Den.* In the long Gallery, in his own houſe, at another time.

Mr. *Papil.* VVhy did not you ſay ſo before?

Mr. *Den.* I did ſay ſo before, in the long Gallery he told me he would have a Common-wealth in *England*, and extirpate the Crown of *England* and the King of *England*.

Mr. *Papil.* Is that all, ſpeak all your knowledge?

Mr. *Den.* He ſaid we ſhould all *Iriſh-men* conform our ſelves to a Common-wealth, and by that we ſhould get our Eſtates again.

Mr. *Papil.* I ask you if this is all you have to ſay?

L. C. J. Do you remember any more?

Mr. *Papil.* More than you ſaid in the Morning?

Mr. *Den.* He ſaid he would extirpate the King, and make *England* a Common-wealth, and that we were fools and ſilly folks that did not comply our ſelves to their factious party, and that we ſhould get our Eſtates, and that he would get me a black Gown and a Benefice, in the

mean time, and when all things were done he would prefer me to a better, and not only my self but all that were of my name, and would stick to me.

Mr. Papil. Is this all? *Mr. Den.* This is all.

Mr. Papil. Then you have nothing more.

Mr. Den. I never spake to him but in his own house.

Mr. Papil. All your Kindred are Papists, are not they?

Mr. Den. No Sir, I cannot say so, but most of them are.

L. C. J. North, VVho can say that, that question no body can answer.

L. C. J. Look ye Gentlemen, now you have asked these questions, you had best go and consider what evidence is delivered, and weigh well all those things that have been said to you, and you must consider your duty, you are to enquire here, whether it be fitting for the King to call my Lord *Shaftsbury* to question upon this account of treasonable words.

Mr. Papil. My Lord, we desire before we go, that either the Law may be read, or we may have the Statute-book up with us.

L. C. J. The Statute-book was never denyed, but you shall have the Law read here: First the Statute of the 25*th.* of *Edward* the *Third*, and then this last Statute.

L. C. J. North. I would say one thing, because I observe that some of you asked the question, whether the Parliament did not debate about an Association: whether it related to that Paper or no, I am not certain, I hope you will consider that Paper well, for my part I must needs say for my self, I heard of it, but I never heard it read before, and never heard [illegible] of it; but it seems to me to show what those Officers were to [illegible] ation, and one of those ends as I remember [illegible] Paper, and hope you will consider it, you [illegible] that one of those ends was to destroy [illegible] Cities of *London* and *Westminster* [illegible] major part of the Members of [illegible] with the King, but the major [illegible] Parliament [illegible] for I pro- [illegible] great conse- [illegible] it being found [illegible] Lock and Key in his [illegible] I suppose my Lord *Shaftsbury* may give an account of it, but [illegible] upon it, it [illegible] not appoint to be an Association [illegible] Parliament.

Mr. At. Gen. VVhen the Parliament was prorogued or dissolved, then the major part of the Members in each County engage themselves to follow their Command and [illegible] their Order.

L. C. J. North, Gentlemen, I hope you will consider your Oaths, and give all things their due weight.

L. C. J. VVill you have the Statute read?

Jury. VVe will read it above.

The *Jury* withdrew to Consider the Evidence, and returned the Bill *Ignoramus*, upon which the People fell a hollowing and shouting.

Mr. At. Gen. My Lord, let it be Recorded this hollowing and hooping in a Court of Justice.

THE END.

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